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Washington, Saturday, May 9, 1936

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 6964 OF FEBRUARY 5, 1935, WITHDRAWING ALL PUBLIC LAND IN CERTAIN STATES

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered that Executive Order No. 6964 of February 5, 1935, withdrawing all public land in certain States, be, and it is hereby, amended so as to permit, subject to valid existing rights, the exchange under section 8, the sale under section 14, and the leasing under section 15 of the act of June 28, 1934, ch. 865, 48 Stat. 1269, of any lands covered by the said order which the Secretary of the Interior shall determine to be properly subject to such exchange, sale, or lease and not needed for any public purpose.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 6, 1936.

[No. 7363]

[Filed, May 8, 1936; 10:16 a. m.]

EXECUTIVE ORDER

ENLARGING CHARLES SHELDON WILDLIFE REFUGE

Nevada

By virtue of and pursuant to the authority vested in me by the Act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the Act of August 24, 1912, c. 369, 37 Stat. 497, and as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that, subject to valid existing rights, all the public lands of the United States in the following-described area be, and they are hereby, withdrawn from settlement, location, sale, entry, or other form of appropriation and reserved and set apart for the use of the Department of Agriculture as an addition to the existing Charles Sheldon Wildlife Refuge, established by Executive Order No. 5540 of January 26, 1931:

MOUNT DIABLO MERIDIAN

T. 45 N., R. 21 E., secs. 6, 7, and 18.
T. 46 N., R. 21 E., secs. 19, 30, and 31.

The reservation made by this order supersedes as to the above-described lands the temporary withdrawal for classification and other purposes made by Executive Order No. 6910 of November 26, 1934, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 6, 1936.

[No. 7364]

[Filed, May 8, 1936; 10:16 a. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

REGULATIONS 64 RELATING TO THE CAPITAL STOCK TAX UNDER SECTION 105 OF THE REVENUE ACT OF 1935

[1936 Edition]

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FEDERAL REGISTER

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TERMINATION OF THE CAPITAL STOCK TAX IMPOSED BY SECTION 701 OF THE REVENUE ACT OF 1934

AUTHORITY FOR REGULATIONS

INTRODUCTORY

Section 105 of the Revenue Act of 1935 imposes a tax upon every domestic corporation with respect to carrying on or doing business for any part of each year ending June 30, beginning with the year ending June 30, 1936. The Act provides that the tax imposed by section 701 of the Revenue Act of 1934 shall not apply to any taxpayer with respect to any year after the year ended June 30, 1935. The tax is measured by the adjusted declared value of the capital stock of the corporation and is imposed at the rate of $1.40 for each full $1,000 of such value.

In its first return a corporation may declare any value it desires for its capital stock, but a value once declared can not be changed, amended, or corrected, and such value serves as the basis for the adjusted declared value of the capital stock for subsequent years and for the computation of the excess-profits tax imposed by section 106 of the Revenue Act of 1935.

Section 105 also imposes a similar tax on foreign corporations with respect to carrying on or doing business in the United States, the tax being measured by the adjusted declared value of the capital of the corporation employed in the transaction of business in the United States. The corporation may declare any value it desires, but, as in the case of domestic corporations, a value once declared can not be changed, amended, or corrected. The statute provides that the adjusted declared value in the case of a foreign corporation shall be the original declared value adjusted in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of business in the United States. Pursuant to this authority, a definite method of adjustment has been outlined in Chapter VI of these regulations.

Corporations chartered under the China Trade Act, 1922, are domestic corporations and are allowed certain credits under section 105 (g) of the Revenue Act of 1935 against the adjusted declared value. There is no similar provision in section 215 of the National Industrial Recovery Act or in section 701 of the Revenue Act of 1934.

Applicable provisions of internal revenue laws of particular importance appear in the appropriate places in these regulations.

It must be constantly borne in mind that these regulations relate only to the tax imposed by section 105 of the Revenue Act of 1935. With respect to the taxes imposed by section 215 of the National Industrial Recovery Act and section 701 of the Revenue Act of 1934, consult Regulations 64 (1933 edition) and Regulations 64 (1934 edition), respectively.

CHAPTER I. EFFECTIVE DATE AND GEOGRAPHICAL SCOPE

Sections 105 (a) and (b) and 501 (a) (7) of the Revenue Act of 1935

SEC. 105. (a) For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax * * *.

(b) For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax * * *.

SEC. 501. (a) (7) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

ARTICLE 1. EFFECTIVE DATE OF THE TAX.—The capital stock tax imposed by section 105 of the Revenue Act of 1935 applies with respect to each year ending June 30, beginning with the year ending June 30, 1936, and is in effect from and after July 1, 1935.

ART. 2. GEOGRAPHICAL SCOPE OF APPLICABILITY OF TAX.—The provisions of section 105 of the Revenue Act of 1935, relating to the capital stock tax, are applicable (1) to corporations created or organized in the United States, or under the law of the United States or of any State or Territory with respect to carrying on or doing business, without reference to where such business is carried on or done, and (2) to every other corporation with respect to carrying on or doing business in any State of the United States, the Territories of Alaska and Hawaii, and the District of Columbia.

Chapter II. Definitions

Section 501 of the Revenue Act of 1935

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(3) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(5) The term "stock" includes the share in an association, joint-stock company, or insurance company.

(6) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(7) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(8) The term "Secretary" means the Secretary of the Treasury.

(9) The term "Commissioner" means the Commissioner of Internal Revenue.

(10) The term "collector" means collector of internal revenue.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

Art. 21. Definitions.—As used in these regulations—

(*a*) The terms defined in the above quoted provisions of law shall have the respective meanings so assigned to them.

(*b*) The term "Act" means the Revenue Act of 1935, with specific reference to section 105 thereof, relating to the capital stock tax.

(*c*) The term "tax" means the capital stock tax imposed by section 105 of the Revenue Act of 1935.

(*d*) The term "corporation" includes an association, a joint-stock company, an interinsurance company, a common law trust, a "Massachusetts" trust, a "business" trust, an insurance exchange operating through an attorney in fact, and certain partnership associations of the type authorized by the laws of Pennsylvania.

(*e*) The terms "association", "interinsurance company", "joint-stock company", "partnership", "common law trusts", "Massachusetts trust", and "business trust" shall have the same meaning and inclusiveness as are attached to them in the applicable Federal income tax regulations.

(*f*) The term "domestic corporation" means a corporation created or organized in the United States or under the laws of the United States, or of any State, or of the Territory of Alaska, or of the Territory of Hawaii, regardless of where its business is conducted.

(*g*) The term "foreign corporation" means any corporation other than a domestic corporation.

(*h*) The term "stock" includes a share or interest in a corporation as defined above.

(*i*) The term "original declared value" means the value of the capital stock of a domestic corporation, or the value of the capital employed by a foreign corporation in its business in the United States, as declared by the corporation in its first return for its first taxable year.

(*j*) The term "taxable year" means any 12-month period after June 30, 1935, beginning July 1 and ending June 30, or any fractional part thereof, with respect to which the corporation is subject to the tax.

(*k*) The term "income-tax taxable year" means the calendar year, fiscal year, or fractional part of a year with respect to which the corporation is required to file a Federal income tax return.

(*l*) The term "first return" means the first capital stock tax return filed by a corporation for its first taxable year under section 105.

(*m*) The term "capital stock" as used in the statute includes: (1) the sum paid in by the stockholders for the prosecution of the business of the corporation and for the benefit of its creditors; (2) surplus (whether earned or paid in); (3) undivided profits; (4) contributions to capital; and other items, whether tangible or intangible, which enter into the net worth of the corporation. The term is equivalent to the net worth of the organization, regardless of whether it is a stock or nonstock corporation, an association, or other entity taxable as a corporation.

Art. 22. Classification of Organizations.—For the purpose of taxation, the Act makes its own classifications and prescribes its own standards of classification. Local law is of no importance in this connection. The term "corporation" is not limited to the artificial entity usually known as a corporation, but includes also an association, a trust classed as an association because of its nature or its activities, a joint-stock company, an insurance company, and certain kinds of partnerships.

Chapter III. Returns

Section 105 (d) of the Revenue Act of 1935

(d) Every corporation liable for tax under this section shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector for the district in which is located its principal place of business or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. * * * All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

Art. 31. Incomplete Return.—In view of the finality of the value declared in the "first return under this section" as provided by section 105 (f), the filing of a tentative return of this tax by a corporation for the first year in which it is taxable under this Act is not permissible for any purpose. In the event a definite and unqualified value is not declared, or if a return form is incomplete to the extent that it is not in substantial compliance with the Act, the form will not be regarded as a proper return, and therefore its filing will not preclude the application of penalties for a delinquent filing.

Art. 32. Return by Domestic Corporation.—Every corporation in existence during any part of a taxable year, including those incorporated during the year and those ceasing to exist before the close of the year, is required to file a capital stock tax return for that year, except in cases where the corporation has previously received a letter from the Commissioner specifically exempting it from filing a capital stock tax return. (See article 71.) The first return under the Act must cover the year ended June 30, 1936, or in the case of corporations organized after June 30, 1936, the first year ending June 30 after the organization of the corporation. This return must contain a statement under oath setting forth the declared value of the capital stock as well as all of the other data called for in Form 707. The declaration of value must be in terms of United States dollars and must be specific and unqualified, for example, $10,000, or in the event it is desired to indicate that the capital stock is of no value, "Zero." Since the original declared value of the capital stock of the corporation can in no case be less than zero, an original declaration of a deficit or a minus figure as the value shall be considered to be a declaration of "Zero." Form 707 may be secured from the collectors of internal revenue and must be filed, in triplicate, with the collector within the prescribed time.

Art. 33. Return by Affiliated Corporations.—Although section 141 of the Revenue Act of 1934 provides for a consolidated income tax return for affiliated railroad corporations, each corporation, whether a railroad or other class of corporation, must render a separate capital stock tax return in triplicate and in complete form. So-called parent and subsidiary corporations must render separate returns, and make a separate declaration of value, in triplicate, the same as every other corporation.

A parent corporation which owns the controlling interest (that is, more than 50 per cent of the voting stock) of one or more corporations should submit with its return a list of all such subsidiaries, indicating the districts in which they are required to file returns, the number of shares of each class of stock held, and the State and date of incorporation of each subsidiary. The returns of all subsidiary corporations should, in addition to other information indicated, show the name of the parent company and the district in which the return of the parent company was filed.

The tax is imposed upon each corporation with respect to carrying on or doing business and not upon each business carried on. If more than one corporation is engaged in carrying on a single business, each must file a return and pay the tax.

ART. 34. RETURN BY FOREIGN CORPORATION.—Every foreign corporation carrying on or doing business in the United States shall file a return on Form 708, in triplicate, irrespective of the amount of capital employed in the United States in the transaction of business. If a foreign corporation is one which is required to file a Federal income tax return, it shall also file a capital stock tax return. If it claims that its activities in the United States do not constitute carrying on or doing business, a statement of its activities in this country during the taxable year shall be submitted in the detail outlined on the return form. (See article 73.) The value of the capital employed in the transaction of the business of a foreign corporation in the United States shall be declared in United States dollars. (See article 64.) The tax payable thereon shall be computed in accordance with the instructions on the return form.

ART. 35. RETURN BY CUSTODIAN.—For the first year in which a corporation is subject to the tax the responsible officers are required under the law to execute and file the return. The duty of making the original declaration of value is imposed upon them and, unless they fail to do so, no one else may assume this obligation. In the event of such failure the Commissioner, collector, or deputy collector is authorized by law to make a return. (See second paragraph of article 37.) If, at the close of the taxable year, all of the property of a corporation is in the custody of, and being administered by a receiver or a trustee in bankruptcy, or is in the custody of a Federal or State officer pending the appointment of a receiver or trustee in bankruptcy, there shall be attached to the return a statement showing the date on which the property was placed in the custody of such officer and whether his custody has been continuous since that date. However, for any taxable year subsequent to the first, the adjusted declared value must be computed by starting with the original declared value as a base and making the definite adjustments required by the statute. Therefore, if at the time a return is required to be filed for such subsequent taxable year all of the property of a corporation is in the custody of, and being administered by such official, he should prepare and file the return showing the required statutory adjustments from the records in his possession. If, during any entire year ending June 30, all of the property of a corporation is in the hands of such public official, the corporation is not subject to the tax for such year, but in order that its exempt status may be made known to the Commissioner such custodian shall file with the collector of internal revenue an information return on Form 707, attaching thereto an affidavit showing the date on which the property came into his custody and the fact that his custody was continuous throughout such entire year.

ART. 36. VERIFICATION OF RETURN.—The return, as well as any separate statement submitted therewith, must be verified under oath or affirmation by at least one of the responsible officers of the corporation, and preferably by the president and the treasurer. The oath or affirmation may be administered by any officer duly authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath is administered, or by a consular officer of the United States.

ART. 37. TIME FOR FILING RETURN.—(*a*) *General.*—Returns must be filed with the collector of the district in which is located the principal place of business of the corporation, or, if it has no principal place of business in the United States, then with the collector at Baltimore, Md., during the month of July next following the end of such year, unless the time for filing is officially extended.

If any corporation fails to make and file a complete return within the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return, the collector or deputy collector under the authority contained in section 3176, United States Revised Statutes, as amended, shall make the return from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

(*b*) *Extensions of time.*—The Act authorizes the Commissioner to extend, under such rules and regulations as he may prescribe with the approval of the Secretary, the time for filing returns and paying taxes, subject to the limitation that no such extension shall be for more than 60 days. Pursuant thereto, the respective collectors of internal revenue are hereby authorized to grant, under the conditions prescribed herein, extensions of time for filing capital stock tax returns and for payment of such taxes. In the exercise of such authority, collectors of internal revenue shall grant an extension of time for filing the return and paying the tax, only: (1) upon a written application under oath filed on or before the statutory due date of the return and showing reasonable cause for the extension; (2) for such reasonable period as may be required by the circumstances, not to extend in any case beyond the 29th day of September next following the close of the taxable year; (3) with the provision that interest at the rate of 6 per cent per annum shall be paid upon the tax from the statutory due date (July 31) to the date of payment of the tax; and (4) in accordance with such procedure as may be prescribed from time to time by the Commission. The determination whether an application presents reasonable cause for an extension depends upon the particular circumstances of each case. Ordinarily, a showing of sickness or absence of the officers charged with the responsibility of making the return, or of other circumstances beyond the control of the corporation which prevent the filing of a proper return within the time required by law, constitutes reasonable cause warranting an extension. Accordingly, a corporation desiring an extension of time for filing its capital stock tax return and paying the tax must file with the collector on or before the statutory due date of the return an application under oath setting forth the reasons necessitating an extension and stating the time for which the extension is requested. In every case in which an extension is allowed, a copy of the collector's letter granting the extension shall be attached to the return when filed. For general provisions relating to penalties and interest, see article 82.

ART. 38. LIQUIDATED CORPORATIONS.—If a corporation is dissolved and entirely liquidated during a taxable year, its responsible representatives shall file a return for that year and pay any tax shown due thereon. Such return shall be designated as a "Final return" and shall clearly disclose all pertinent facts relating to the dissolution. This return may be filed, and the tax paid, immediately upon the completion of the liquidation, adapting for this purpose the form of return used for the preceding year in the event the form for the current year is not available. If the return is not filed until the close of the taxable year, sufficient funds of the dissolved corporation should be retained to pay any tax assessable against the corporation; otherwise, the tax may be collected by suit against the stockholders to whom its assets have been distributed. However, if a corporation ceased to exist as a corporate entity in contemplation of law during a taxable year, for example, by failure to renew its charter, but

continues in business in a quasi-corporate capacity, it becomes an association and will not be deemed to have been dissolved within the meaning of this article, and accordingly must continue to file returns and to pay any tax due.

ART. 39. CHANGE OF CORPORATE NAME.—A mere change in name does not constitute a new corporation. The return should be made in the name which the corporation bears at the end of the taxable year, and should show the name under which the return was filed for the preceding year. If, however, a distinctly new corporation was organized, each shall be required to make a separate return and pay any tax due.

Inspection of Returns

Section 105 (e) of the Revenue Act of 1935

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

Returns to be Public Records

Section 257 of the Revenue Act of 1926

(a) Returns upon which the tax has been determined by the Commissioner shall constitute public records; but, except as hereinafter provided in this section and section 1203, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President. Whenever a return is open to the inspection of any person a certified copy thereof shall, upon request, be furnished to such person under rules and regulations prescribed by the Commissioner with the approval of the Secretary. The Commissioner may prescribe a reasonable fee for furnishing such copy.

(b) (1) The Secretary and any officer or employee of the Treasury Department, upon request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or a select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution, shall furnish such committee sitting in executive session with any data of any character contained in or shown by any return.

(2) Any such committee shall have the right, acting directly as a committee, or by or through such examiners or agents as it may designate or appoint, to inspect any or all of the returns at such times and in such manner as it may determine.

(3) Any relevant or useful information thus obtained may be submitted by the committee obtaining it to the Senate or the House, or to both the Senate and the House, as the case may be.

(c) The proper officers of any State may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe.

(d) All bona fide shareholders of record owning 1 per centum or more of the outstanding stock of any corporation shall, upon making request of the Commissioner, be allowed to examine the annual income returns of such corporation and of its subsidiaries. Any shareholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both.

* * * * *

ART. 39½. INSPECTION OF RETURNS.—Under the foregoing provisions of law the inspection of capital stock tax returns and the furnishing of copies thereof shall be permitted to the same extent, and upon the same terms and conditions, as provided in Treasury Decision 4504 with respect to capital stock tax returns made under section 215 of the National Industrial Recovery Act and section 701 of the Revenue Act of 1934.

CHAPTER IV. DOMESTIC CORPORATIONS

Section 105 (a) and (f) of the Revenue Act of 1935

(a) For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of $1.40 for each $1,000 of the adjusted declared value of its capital stock.

(f) For the first year ending June 30 in respect of which a tax is imposed by this section upon any corporation, the adjusted declared value shall be the value, as declared by the corporation in its first return under this section (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section (or as of the date of organization in the case of a corporation having no income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section). For any subsequent year ending June 30, the adjusted declared value in the case of a domestic corporation shall be the original declared value plus (1) the cash and fair market value of property paid in for stock or shares, (2) paid in surplus and contributions to capital, (3) its net income, (4) the excess of its income wholly exempt from the taxes imposed by Title I of the Revenue Act of 1934, as amended, over the amount disallowed as a deduction by section 24 (a) (5) of such title, and (5) the amount of the dividend deduction allowable for income tax purposes, and minus (A) the value of property distributed in liquidation to shareholders, (B) distributions of earnings or profits, and (C) the excess of the deductions allowable for income tax purposes over its gross income; adjustment being made for each income-tax taxable year included in the period from the date as of which the original declared value was declared to the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year. * * *

ART. 41. NATURE AND RATE OF TAX.—The tax is an excise tax imposed with respect to carrying on or doing business during a taxable year ending June 30, or any fractional part thereof. It is an excise tax upon the exercise of the privilege of doing business and not on the business itself and is imposed upon each corporation with respect to carrying on or doing business and not upon each business carried on. If more than one corporation is engaged in carrying on a single business, each must file a return and pay the tax. The tax is imposed at the rate of $1.40 for each full $1,000 of the adjusted declared value of the capital stock. See articles 33, 45, and 61.

ART. 42. DOING BUSINESS.—The term "business" is very comprehensive and embraces whatever occupies the time, attention, or labor of men for profit. Accordingly, regardless of the nature of its activities, any corporation organized for profit and carrying out the purpose of its organization is doing business within the meaning of the Act. Similarly, even if not organized for profit, any corporation which nevertheless engages in activities ordinarily carried on for profit is also doing business. It is immaterial whether the activities result in a profit or a loss, whether the corporation has been successful in its enterprise, or that because of unfavorable business conditions, no operations are carried on for a particular period. No particular amount of business need be done, nor is it necessary that the business be continuous throughout the taxable year.

The case is exceptional in which the activities of a corporation organized for profit do not amount to doing business within the meaning of the Act. Such a case is generally limited to one in which the corporation is not pursuing the ends for which organized, i. e., profit.

ART. 43. ILLUSTRATIONS.—(a) *General.*—In general "doing business" includes any activities of a corporation whether it engages in—

(1) buying, selling, manufacturing, developing, financing, speculating, or otherwise dealing in property of any description;

(2) furnishing services of any character;

(3) leasing or managing properties, collecting rents or royalties;

(4) managing, financing, controlling, or directing the operations, performing any function, or, in any other way, aiding or serving the general purposes of any affiliated or related company;

(5) the orderly liquidation of property by negotiating sales from time to time as opportunity and judgment dictate and distributing the proceeds as liquidation is effected—for example, the liquidation of an estate, or of properties taken over from another corporation, or of the shareholders' fractional interests in particular property; or

(6) any other activities coming within the ordinary and natural signification of the term "carrying on or doing business."

(*b*) *Exceptions.*—Ordinarily the exceptions to "doing business" are restricted to limited activities of a corporation, such as—

(1) the issuance and sale of its stock for cash as a preliminary step in the completion of its organization; or

(2) the distribution of the avails of property and the doing only of such acts as may be necessary for the maintenance of its corporate status in the case in which the corporation either was organized for, or has reduced its activities to, the mere owning and holding of specific property.

Nor will a corporation be regarded as "doing business" if it has *no* activities, because it has—

(3) become dormant; or

(4) completed its business, as, for example, a real estate subdivision developed, sold, and reduced to cash; or

(5) abandoned its business, as, for example, where prospective oil properties are proven worthless.

If the corporation's activities are not so limited as outlined in the preceding paragraph, it will be regarded as "doing business" within the meaning of the Act. Thus, a corporation is "doing business" if—

(A) in addition to the activities described in paragraph (*b*) (1) it engages in any other activity such as the making of contracts, the buying of materials or machinery, the construction of buildings, or the employing or discharging of individuals; or

(B) in addition to the activities described in paragraph (*b*) (2) it engages in any other activity, such as (*i*) in the case of a company holding securities, the investment or reinvestment of surplus or other funds in excess of an amount necessary to maintain its original investments, or (*ii*) in the case of a company which had leased its property to another, the maintaining or keeping the property in repair in accordance with the terms of the lease, or in other activities necessary to enable the lessee properly to manage the leased property, regardless of whether such activities are performed on behalf and under the order of the lessee or that such acts are not of major importance; or

(C) although it retires from its principal business it nevertheless engages in other business activities or maintains its organization for the purpose of continued effort in the pursuit of profit or gain.

ART. 44. ORIGINAL DECLARED VALUE.—(*a*) In its first return a corporation must declare a definite and unqualified value for its capital stock. "First return" means the first capital stock tax return filed by a corporation for its first taxable year under section 105. Extreme care should be exercised in making this original declared value, for the reason that if a return has been filed disclosing a declared value, such value cannot be changed, amended, or corrected, either by the corporation or by the Commissioner. A subsequent return declaring a different value, even though filed before the expiration of the prescribed period, is therefore not acceptable under the statute. The importance of the original declared value may be seen from the fact that such original declared value forms the basis for the computation of the tax on capital stock in years subsequent to the first taxable year, and constitutes a prime factor in determining the amount of tax imposed on excess profits under section 106 of the Revenue Act of 1935.

(*b*) In the making of its original declared value a corporation is not bound by any declaration of value made by it in a return filed under the provisions of either section 215 of the National Industrial Recovery Act or section 701 of the Revenue Act of 1934. The corporation may exercise unrestricted judgment and discretion in determining the value to be declared for its capital stock in its first return under section 105 of the Revenue Act of 1935.

ART. 45. ADJUSTED DECLARED VALUE.—(*a*) *First taxable year.*—The adjusted declared value for the first taxable year is the original declared value.

If a corporation was in existence during the entire taxable year ended June 30, 1936, the adjusted declared value shall be as of the close of its last income-tax taxable year which ended prior to July 1, 1936. If a corporation makes its Federal income tax return on a calendar year basis, the value declared must be as of December 31, 1935. If a corporation makes its income tax return on a fiscal year basis, the value must be declared as of the close of such fiscal year ended prior to July 1, 1936.

If a corporation was organized during the taxable year ended June 30, 1936, and established an accounting period (for Federal income tax purposes) ended on or prior to June 30, 1936, the value shall be declared as of the close of such period. If no such period was established, the value shall be declared as of the date of the organization of the corporation. (See article 21 (*m*).)

If a corporation is organized after June 30, 1936, a rule similar to that stated in the last preceding paragraph shall be applied.

(*b*) *Years subsequent to first taxable year.*—The adjusted declared value for any taxable year subsequent to the first taxable year shall be determined as follows:

To the adjusted declared value applicable to the last preceding taxable year shall be added the sum of the following:

(1) Cash received for stock issued, or, if such stock was issued for property, the fair market value of such property as of the date paid in.

(2) All cash paid in and the fair market value of all property received (whether paid in by, or received from, stockholders or others) constituting paid-in surplus or contributions to capital. The fair market value of the property shall be determined as of the date of such payment or contribution.

(3) Net income. Net income is the net income required to be shown on the income tax return for the income-tax taxable year ending on or before June 30. The credits allowed corporations against net income (for example, the credit allowed by section 26 of the Revenue Act of 1934) are not applicable.

(4) The entire amount of the corporate income wholly exempt from the tax imposed by Title I of the Revenue Act of 1934 (including all amounts excluded from gross income by section 22 of that title and all income of whatever nature and from whatever source, which though not specified in section 22 is nevertheless wholly exempt from the tax imposed by that title) less the amount disallowed as a deduction by section 24 (a) (5) of that title. For example, the income from leases of State school lands must be included.

(5) The aggregate amount of such dividends as are allowable as deductions for Federal income tax purposes.

From the foregoing shall be deducted the sum of the following:

(A) The value of any property distributed to shareholders in liquidation or partial liquidation. The value of such property shall be determined as of the date of such distribution. The term "liquidation or partial liquidation" shall have the same meaning as in the provisions of the applicable income tax laws respecting distributions by corporations.

(B) Distributions (other than liquidating) made from earnings or profits. To constitute a deduction under this paragraph, the distribution must be made to shareholders out of prior or current earnings or profits. The term "earnings or profits" shall have the same meaning as in the provisions of the applicable income tax law respecting distributions by corporations.

(C) The excess over gross income of the corporation of deductions allowable for Federal income tax purposes.

In every instance the adjustments for items (1), (2), (3), (4), and (5) and items (A), (B), and (C) are to be made for each income-tax taxable year included in the period beginning at the close of the last income-tax taxable year ending at or prior to the close of the last preceding taxable year and extending to the close of the last income-tax taxable year ending at or prior to the close of the taxable year.

The following example illustrates how the above method of determining adjusted declared value should be used: A corporation which makes its Federal income tax returns on a calendar year basis files a capital stock tax return for the

taxable year ending June 30, 1936, in which the value of its capital stock is declared as of December 31, 1935. To this value as of December 31, 1935, must be added items (1) to (5), inclusive, and from the sum thereof must be deducted the total of items (A), (B), and (C), for the period from January 1, 1936, to December 31, 1936, the end of the income-tax taxable year. The net amount will constitute the adjusted declared value on which will be computed the capital stock tax for the taxable year ending June 30, 1937. This adjusted declared value, to the extent that it is true and correct, will constitute the base for computing the adjusted declared value as of December 31, 1937, for the taxable year ending June 30, 1938. To this base must be added the items (1) to (5), inclusive, and from that sum must be deducted items (A), (B), and (C), for the period from January 1, 1937, to December 31, 1937. Each subsequent year must be adjusted in like manner, the true and correct adjusted declared value for one taxable year constituting the base for computing the adjusted declared value for the next following taxable year.

ART. 46. APPLICATION OF ADJUSTMENTS TO SPECIFIC TRANSACTIONS.—(a) *Transactions in own capital stock.*—Whether the acquisition or disposition by a corporation of shares of its own capital stock gives rise to adjustments depends upon the real nature of the transaction, which is to be ascertained from all its facts and circumstances.

The purchase by a corporation of part of its own stock for retirement and the retirement of such stock in due course results in an adjustment under section 105 (f) (A).

If a corporation deals in its own shares as it might in the shares of another corporation, no direct adjustments result, but such transactions may be reflected in addition (3) or deduction (C) in the same manner as though the corporation were dealing in the shares of another corporation. The same rule will apply if the corporation receives its own stock as consideration upon the sale of property by it, or in satisfaction of indebtedness to it.

If a corporation requires additional funds for conducting its business and obtains such needed money through voluntary donations of shares of stock by its shareholders and the resale thereof, the amounts received on such resale will likewise constitute an addition. If shares of stock so donated are retired, no adjustment results, as no distribution to shareholders has been effected.

(b) *Consolidations.*—If two or more corporations are consolidated after June 30, 1936, into a newly created corporation, such new corporation will, in its capital stock tax return for its first taxable year establish an original declared value for its capital stock.

(c) *Mergers.*—If two or more corporations are merged after the close of the income-tax taxable year as of which the surviving or continuing corporation made an original declared value for its capital stock, the continuing corporation will be required to make all necessary statutory adjustments, using for such purpose the original (or adjusted) declared value established by it prior to the merger. In such case the original (or adjusted) declared value established by the merged or discontinued corporation prior to the merger does not, by reason of the merger, become an addition to the original (or adjusted) declared value of the continuing corporation. As to the effect of the merger upon the discontinued corporation, see paragraph (d) of this article. Whether the merger as such requires any adjustment to the original or adjusted declared value of the continuing corporation depends upon the manner in which the merger was effected. Thus, if the continuing corporation issued additional shares of its stock in consideration for and to acquire either the stock or the assets of the merged corporation, the fair market value of the stock or assets so acquired would constitute an addition adjustment. If, on the other hand, the continuing corporation, as parent company, already owned the capital stock of the merged corporation and the merger was effected by surrender of such stock in exchange for the assets of the merged corporation, no adjustment would result (except as reflected in net income), since there would be merely the exchange of one form of property (stock of the subsidiary) for another (assets of the subsidiary).

(d) *Dissolving corporations.*—If a corporation winds up its affairs, and ceases to exist, between the close of a capital-stock-tax taxable year (June 30) and the date upon which its next income-tax taxable year would have normally closed, all necessary statutory adjustments shall be made for transactions occurring during the period between the close of its preceding income-tax taxable year and the date on which it becomes nonexistent. For example, a corporation, with an income-tax taxable year ending December 31, 1936, which ceases to exist on September 30, 1936, would in filing its capital stock tax return for the year ending June 30, 1937, make adjustments for transactions occurring between January 1, 1936, and September 30, 1936.

If a corporation ceases to exist on a date subsequent to the close of its income-tax taxable year but prior to the close of the capital-stock-tax taxable year (June 30) for which the return is being made, the statutory adjustments shall include all transactions occurring during its income-tax taxable year, and shall not include any transactions (whether resulting from operations or from liquidation) which occurred between the date of the close of such income-tax taxable year and the date on which the corporation becomes nonexistent. For example, a corporation with an income-tax taxable year ending December 31, 1936, which ceases to exist on March 31, 1937, would in filing its capital stock tax return for the year ending June 30, 1937, make adjustments for transactions between January 1, 1936, and December 31, 1936, and would not include any adjustments for the subsequent period, January 1, 1937, to March 31, 1937. These rules apply to corporations retiring as a result of a consolidation or merger as well as to those retiring for other reasons. For provisions relating to returns see article 38.

(e) *Cancellation of indebtedness.*—If a shareholder in a corporation which is indebted to him gratuitously forgives the debt, the transaction amounts to a contribution to the capital of the corporation and as such falls within addition adjustment (2). The rule is not altered by the fact that the shareholder is a parent corporation, but the parent company may not make any corresponding deduction adjustment on its return, as the statute makes no provision for the deduction of donations or contributions other than those that are reflected in net income because properly includible in ordinary and necessary expense for Federal income tax purposes.

CHAPTER V. CHINA TRADE ACT CORPORATIONS

Section 105 (g) of the Revenue Act of 1935

(g) For the purpose of the tax imposed by this section there shall be allowed in the case of a corporation organized under the China Trade Act, 1922, as a credit against the adjusted declared value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

ART. 51. DEFINITIONS.—As used in this chapter the term—

(a) *China Trade Act Corporation* means a corporation chartered under the China Trade Act, 1922.

(b) *China* means (1) China including Manchuria, Thibet, Mongolia, and any territory leased by China to any foreign government, (2) the Crown Colony of Hongkong, and (3) the Province of Macao.

(c) *Possessions of the United States* include Puerto Rico, the Philippine Islands, the Panama Canal Zone, Guam, Tutuila, Wake, Palmyra, and the Virgin Islands.

(d) *Persons resident* means persons who on June 30 of the taxable year had their domicile in China, the United States, or a possession of the United States.

ART. 52. GENERAL.—Corporations organized under the China Trade Act, 1922, are domestic corporations and, with the exceptions noted in this chapter, are subject to all of the provisions of these regulations relating to domestic corporations, including those governing declarations of value and subsequent adjustments thereof. (See articles 44 and 45.) In view of the provisions of section 12 of the China Trade Act, the income-tax taxable years of all China Trade Act corporations end on December 31. All declarations of value and adjustments shall be shown in United States dollars. In declaring a value for the capital stock in the first return, conversion of foreign currencies must be made at the rate of exchange prevailing on the date as of which the declaration is required to be made. For the purpose of computing adjustments for subsequent years, conversion must be made for adjustments (1), (2), (A), and (B) of section 105 (f) at the rate of exchange prevailing on the date of consummation of the transactions; conversions for all other adjustments to be made at the prevailing rate on December 31 of the taxable year. The prevailing rate of exchange shall be the rate certified to the Secretary by the Federal Reserve Bank of New York under the provisions of section 522 (c) of the Tariff Act of 1930.

ART. 53. CREDITS AND COMPUTATION OF TAX.—A China Trade Act corporation is allowed a credit against the adjusted declared value of its capital stock for each taxable year equal to the proportion of such adjusted declared value which the par value of the shares of its stock owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China, wherever resident, bears to the par value of the whole number of the shares of stock outstanding on such date.

Only those shares of stock, the equitable right to the income from which is in good faith vested on June 30 of any taxable year in persons resident in China, the United States, or possessions of the United States, and individual citizens of the United States or China, wherever resident, may be considered in determining such credit.

If a corporation claims the credit mentioned above, it must file a capital stock tax return (Form 707) executed in accordance with the law and these regulations (see Chapter III) and complete the form in accordance with the instructions thereon. It must also securely attach to such return, and make a part thereof, a supplemental form (707a) which shall contain all of the information required by the law, these regulations, and the instructions thereon.

CHAPTER VI. FOREIGN CORPORATIONS

Section 105 (b) and (f) of the Revenue Act of 1935

(b) For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to $1.40 for each $1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

(f) For the first year ending June 30 in respect of which a tax is imposed by this section upon any corporation, the adjusted declared value shall be the value, as declared by the corporation in its first return under this section (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section (or as of the date of organization in the case of a corporation having no income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section). * * * For any subsequent year ending June 30, the adjusted declared value in the case of a foreign corporation shall be the original declared value adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

ART. 61. NATURE AND RATE OF TAX.—The tax is an excise tax imposed with respect to carrying on or doing business in the United States during a taxable year ending June 30, or any fractional part thereof. The tax is imposed at the rate of $1.40 for each full $1,000 of the adjusted declared value of capital employed by a foreign corporation in the transaction of business in the United States. (See articles 42, 43, and 44.)

ART. 62. CARRYING ON OR DOING BUSINESS IN THE UNITED STATES.—A foreign corporation is carrying on or doing business in the United States if it maintains an agent, or office, or warehouse in the United States, or in any other way enters the United States for the purpose of doing business. The determination of what constitutes carrying on or doing business in the United States depends upon the particular facts of each case. Generally the purchase or sale of commodities or other property in the United States in the furtherance of efforts in the pursuit of profit or gain is carrying on or doing business in the United States. As to the meaning of "carrying on or doing business", see articles 42 and 43.

ART. 63. CAPITAL EMPLOYED IN THE UNITED STATES.—Examples: (*a*) The phrase "capital employed in the transaction of its business in the United States" means the portion of the total capital of the foreign corporation utilized in carrying on or doing business in the United States.

(*b*) A foreign corporation may employ capital in the transaction of its business in the United States in various ways. For example, property in the United States used in its business; notes and accounts receivable, and other like assets, representing business done in the United States; merchandise kept in the United States for sale; and funds on deposit in the United States for use in the corporation's business in the United States, are capital employed in the transaction of business in the United States.

ART. 64. ORIGINAL DECLARED VALUE.—In its first return (see article 21 (*b*)) a foreign corporation must declare a definite value for the capital employed by such corporation in the transaction of business in the United States. The same rules relative to original declared value of capital stock of domestic corporations (see article 44) are applicable to the original declared value of capital of foreign corporations employed in the transaction of business in the United States.

ART. 65. ADJUSTED DECLARED VALUE.—(*a*) *First taxable year.*—The adjusted declared value for the first taxable year is the original declared value.

If a foreign corporation was in existence during the entire taxable year ended June 30, 1936, the adjusted declared value shall be as of the close of its last income-tax taxable year ended prior to July 1, 1936. If a corporation makes its return for Federal income tax purposes on a calendar year basis, the value declared must be as of the close of December 31, 1935. If a corporation makes its income tax return on a fiscal year basis, the value must be declared as of the close of such fiscal year ended prior to July 1, 1936.

If a corporation was organized during the taxable year ended June 30, 1936, and established an accounting period (for Federal income tax purposes) ended on or prior to June 30, 1936, the value shall be declared as of the close of such period. If no such period was established, the value shall be declared as of the date of organization of the corporation.

If a foreign corporation is organized after June 30, 1936, a rule similar to that stated in the last preceding paragraph shall be applied.

(*b*) *Years subsequent to first taxable year.*—The adjusted declared value for the taxable year following the first taxable year is the original declared value adjusted to reflect the net increase or decrease in the capital employed in the transaction of business in the United States. The adjustments which are to be made must reflect the changes taking place during the income-tax taxable year ending at or prior to the close of the taxable year. For example: A foreign corporation, which makes its Federal income tax returns on a calender year basis, files a capital stock tax return for the taxable year ended June 30, 1936, and declares the value of its capital employed in the transaction of its business in the United States as of December 31, 1935. To this value adjustments must be made to reflect the changes taking place during the year ended December 31, 1936. The resultant amount will constitute the adjusted declared value on which will be computed the capital stock tax for the taxable year ending June 30, 1937. This adjusted declared value, to the extent

that it is true and correct, will constitute the base for computing the adjusted declared value for the taxable year ending June 30, 1938.

Ordinarily and unless the circumstances of the case require otherwise, the adjustments shall be made on the basis of the values disclosed by the books of account and records. In making the adjustments, transitory capital shall be considered separately from the nontransitory or all other capital. For this purpose, transitory capital means tangible personal property, such as a ship, train, motor bus, or other means of conveyance, employed in the regular operation of transportation services between points in the United States and points outside the United States. The term does not include such assets within the United States as working capital (cash, inventories, etc.) or equipment used normally at terminal points, such as machinery for loading and unloading, or tugboats for towing, etc.

Adjustment of the nontransitory or all other capital shall be made without any proration, whether because of a time factor or otherwise, on the basis of the increase or decrease during the applicable income-tax taxable year of the gross assets in the United States. For example, if at the end of the applicable income-tax taxable year the amount of the gross assets in the United States exceeds the amount thereof at the beginning of such year, the amount of the excess shall be added as the increase of the nontransitory capital. If, instead, the amount of the gross assets in the United States at the end of the applicable income-tax taxable year was less than the amount at the beginning of such year, the amount of the reduction shall be deducted as the decrease of the nontransitory capital.

Adjustment of the transitory capital shall be made for the following increases and decreases:

(1) An addition or a deduction, as the case may be, shall be made for the proportionate value of each unit added to or definitely withdrawn from the transitory capital. For example, if during the applicable income-tax taxable year a ship having a value of $1,000,000 is entered in the service of the business in the United States under a schedule which will normally require that one-fifth of its time be spent within the territorial limits of the United States, one-fifth of the value of such ship ($200,000) shall be added to reflect the resultant increase in the transitory capital. If, instead, such a ship had been in the service of the business in the United States and was definitely withdrawn therefrom during the applicable income-tax taxable year, a deduction of $200,000 should be made to reflect the resultant decrease in the transitory capital.

(2) An addition or a deduction, as the case may be, shall be made for the increase or decrease in the proportionate value of each unit of transitory capital which by reason of a change during the applicable income-tax taxable year becomes employed in the transaction of business in the United States for a greater or lesser period than prior to such change. For example, if on the basis of a schedule requiring that one-fifth of its time be spent within the territorial limits of the United States, $200,000 represents the proportionate value of a ship worth $1,000,000 employed in the transaction of business in the United States, and if during the applicable income-tax taxable year a change in schedule is made so that the time to be spent within United States territorial limits becomes increased to one-fourth, an addition of $50,000 shall be made to reflect the increase of the proportionate value of such ship from $200,000 to $250,000. If, instead, the schedule has been changed so that only one-tenth of the time would be spent within the territorial limits of the United States, a deduction of $100,000 should be made to reflect the decrease of the proportionate value of the ship from $200,000 to $100,000.

The sum of the transitory capital and of the nontransitory or all other capital, both adjusted as above outlined, shall constitute the adjusted declared value for the taxable year. Such value, to the extent that it is true and correct, will constitute the base for computing the adjusted declared value for the next succeeding taxable year.

(c) Application for permission to make the adjustment on the basis of some other method will be considered by the Commissioner in the case of any foreign corporation, where, by reason of the facts and circumstances in the particular case, the method prescribed in paragraph (*b*) will not fairly reflect the changes in the capital employed in the transaction of its business in the United States, and where, in good faith and unaffected solely by considerations of tax liability, the corporation desires to make the adjustment on the basis of such other method. In such case the application should be made in the form of an affidavit setting forth all the facts and containing a full explanation of the method sought to be used.

CHAPTER VII. EXEMPTIONS

Section 105 (c) of the Revenue Act of 1935

(c) The taxes imposed by this section shall not apply—

(1) to any corporation enumerated in section 101 of the Revenue Act of 1934, as amended;

(2) to any insurance company subject to the tax imposed by sections 201, 204, or 207 of such Act, as amended.

Sections 101, 201(a), 204(a), and 207(a) of the Revenue Act of 1934

SEC. 101. The following organizations shall be exempt from taxation under this title—

(1) Labor, agricultural, or horticultural organizations.

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association

because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(15) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments.

SEC. 201.

(a) DEFINITION.—When used in this title the term "life insurance company" means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health, and accident insurance), the reserve funds of which held for the fulfillment of such contracts comprise more than 50 per centum of its total reserve funds.

SEC. 204.

(a) IMPOSITION OF TAX.—In lieu of the tax imposed by section 13 of this title, there shall be levied, collected, and paid for each taxable year upon the net income of every insurance company (other than a life or mutual insurance company) a tax as follows: * * *

SEC. 207.

(a) APPLICATION OF TITLE.—Mutual insurance companies, other than life insurance companies, shall be taxable in the same manner as other corporations, except as hereinafter provided in this section. * * *

ART. 71. PROOF OF EXEMPTION UNDER SECTION 105 (c) (1) OF THE REVENUE ACT OF 1935.—To sustain a claim for exemption under section 105 (c) (1), a corporation must show that it comes clearly within one of the classes of organizations specifically enumerated in section 101 of the Revenue Act of 1934. A corporation claiming to be within one of these classes will not be considered exempt until all of the required evidence has been furnished to the Commissioner and a ruling has been issued. However, no corporation which has received a letter from the Commissioner exempting it from filing capital stock tax returns under the provisions of either section 215 of the National Industrial Recovery Act, by reason of the provisions of section 103 (other than paragraph (6)) of the Revenue Act of 1932, or section 701 of the Revenue Act of 1934, by reason of the provisions of section 101 of said Act, shall be required to file such a return so long as the character, purposes, and activities of the corporation remain as they were during the income-tax taxable year as to which the exemption granted in the letter from the Commissioner was predicated.

In all other cases, in order to establish its exemption and thus be relieved of the duty of filing returns and of paying the tax, it is necessary that each corporation which claims exemption shall file a capital stock tax return, complete in all respects including a declaration of value for its capital stock, and shall specify therein the number of the subsection of section 101 under which exemption is claimed. There shall be filed with the return evidence that the corporation is, in fact, within the exempted class specified. If the corporation has heretofore received a letter from the Commissioner exempting it from filing income tax returns, under a provision of section 101 of the Revenue Act of 1934, or under an identical provision of a prior Revenue Act, and if its character, purposes, and activities remain as they were during the income-tax taxable year for which exemption was granted, a copy of that letter shall be attached to the capital stock tax return and will be considered prima facie evidence of such exempt status. If the corporation has received no such letter, it shall file with the return, as a part of the evidence, a statement in which is set forth the character of the organization, the purpose for which it was organized, its actual activities, the sources of its income and the disposition thereof, whether or not any of its income is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which affect its right to exemption. There shall also be attached to such return a copy of each of the following: the charter or articles of incorporation, the by-laws of the corporation, and the latest financial statement showing the assets, liabilities, receipts, and disbursements of the organization. Original documents should not be submitted, as all evidence becomes a part of the records of the Bureau and under the rules of the Department may not be returned. As the manner in which the organization operates is an important factor in establishing its status, the Commissioner, before ruling on a case, will require the record of at least one year's operation.

A newly organized corporation, the status of which has not been determined, must file a return and declare a value for its capital stock and it may (1) pay any tax shown on such return as possibly due in order to avoid any statutory interest that deferred payment might entail, or (2) defer payment of the tax until a ruling has been made. If the corporation exercises option (1) and the claim for exemption is allowed, it will be advised, and may thereafter file a claim for the refund of the tax paid. If it exercises option (2) and the claim for exemption is rejected, the corporation will be required to pay the tax together with statutory interest from the due date of the tax and not from the date of the rejection of the claim for exemption.

The collector, upon receipt of the return and accompanying papers, properly executed, will forward them to the Commissioner for decision as to whether or not the organization is exempt. After consideration by the Commissioner, the corporation will be advised whether its claim for exemption is allowed or rejected. If the claim is allowed, no further capital stock tax returns will be required so long as its income tax status is not changed.

Collectors will keep a list of all such exempt corporations, to the end that they may occasionally inquire into their status and ascertain whether or not they are observing the conditions upon which their exemption is predicated.

For a more detailed discussion of the several classes of corporations that are enumerated in section 101, reference is made to the applicable income tax regulations.

ART. 72. INSURANCE COMPANIES.—Only those insurance companies subject to the income tax imposed by section 201, 204, or 207 of the Revenue Act of 1934 are exempt from capital stock tax under section 105 (c) (2) of the Revenue Act of 1935. Such exempt status must be established by an official ruling. For that purpose a capital stock tax return, complete in all respects including a declaration of value for its capital stock, must be filed, showing under which of the specified sections the corporation is subject to income tax. After consideration by the Commissioner, the corporation will be advised whether its claim for exemption is allowed or rejected. If the claim is allowed, no further capital stock tax returns will be required so long as its income tax status is not changed.

The exemption provided by section 105 (c) (2) does not apply to incorporated insurance agencies, attorneys in fact for reciprocal or interinsurance companies, holding companies for insurance companies, or any corporation (other than an insurance company) which is closely affiliated with, or is a facility of, or whose capital stock is held by, an insurance company.

ART. 73. NOT DOING BUSINESS.—A domestic corporation which did not carry on or do any business (see article 42), or a foreign corporation which did not carry on or do any business in the United States (see article 62), during a taxable year ending June 30, may claim exemption on the ground of not doing business within the meaning of the Act. If such claim is allowed, the corporation will not be required to pay any capital stock tax for such year.

As corporations are generally organized to do business, every corporation is presumed to be subject to the tax unless it submits evidence satisfactory to the Commissioner that it has not carried on or done business during any part of the taxable year. Accordingly, exemption from the tax must be established by an official ruling by the Commissioner. The fact that an exemption from the tax was allowed for one year because of not doing business is not acceptable as proof that business was not carried on in any subsequent year. Likewise, the mere citation of a court decision, or of a provision of the Act or of these regulations, or a statement to the effect that the same conditions existed during the taxable year as prevailed in a previous year, or any other mere conclusion, does not constitute satisfactory proof. If a corporation claims exemption from the tax because of not doing business, a capital stock tax return, completed in accordance with the requirements of these regulations (see Chapter III), must be filed for each such year, regardless of whether or not its claim for exemption has been allowed for the previous taxable year. The following evidence must be attached to such return: (1) An excerpt from its charter setting forth its corporate powers; (2) copies of the minutes of all meetings of the board of directors held during the taxable year, and of all reports made by an executive or other standing committee, or any other governing body, upon the activities of the corporation during the taxable year; (3) a comparative statement of the assets and liabilities as of the beginning and close of the taxable year; (4) a detailed statement for such year of the cash receipts from all sources and the cash disbursements for all purposes; and (5) a comprehensive statement of all activities in which the corporation was actually engaged during the taxable period, and in general all facts relating to its operations which may affect its right to exemption. In addition there shall be submitted all other information, data, and records that the Commissioner may require. Original documents should not be submitted, as all evidence becomes a part of the official records and under the rules of the Department may not be returned. (See articles 36 and 74.)

The collector upon receipt of the return, supported by the necessary evidence, shall forward it to the Commissioner for decision as to whether or not the organization is exempt from payment of the tax for that year.

ART. 74. ACTION ON CLAIMS FOR EXEMPTION.—Claims for exemption from liability for the tax should be made at the time the return is filed. Claims made at a later date will be considered only if made by filing with the collector a claim for the abatement or refund (as the case may be) of any tax assessed or paid. Such claim shall be accompanied by the necessary supporting evidence. If a claim for exemption is rejected, the tax found due shall be assessed at once. Interest on such tax accrues at the statutory rate from the due date and not from the date when the exemption was rejected. (For discussion of incomplete returns, see articles 31 and 37; for discussion of penalties and interest, see articles 81 and 82.)

If the claim for exemption relates to a return upon which the corporation made an original declaration of value for its capital stock and the claim is allowed, such declaration does not become effective as the statutory original declared value. In such case the corporation must make its original declared value upon its return for the succeeding taxable year. If the corporation has established its original declared value and, therefore, the claim for exemption relates to a return upon which the original declared value is adjusted as required by section 105 (f), such adjusted declared value does not become voided by an allowance of the claim but instead constitutes the base for making statutory adjustments with respect to subsequent years.

For example, if a claim for exemption is denied for the taxable year ended June 30, 1936, and such a claim is sustained for the taxable year ended June 30, 1937, while no tax is due for the taxable year ended June 30, 1937, the adjusted declared value for that year will constitute the base for the statutory adjustments to be made in the return for the taxable year ended June 30, 1938.

CHAPTER VIII. PAYMENT AND COLLECTION OF TAX

Section 105 (d) of the Revenue Act of 1935

(d) * * * The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. * * *

Section 3176, United States Revised Statutes, as Amended, and Sections 404 and 406 of the Revenue Act of 1935

SEC. 3176. * * * In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 404. Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

SEC. 406. In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

Section 1114 of the Revenue Act of 1926 and Section 3184 of the United States Revised Statutes

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under author-

ity thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this Act to collect, account for, and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by Titles IV, V, VI, VII, VIII, and IX, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended * * *.

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3184. Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month. (Note.—See section 404 of the Revenue Act of 1935 with respect to interest.)

Section 35 of the Criminal Code of the United States, as Amended by Act of Congress Approved June 18, 1934 (Public No. 394, Seventy-third Congress)

SEC. 35. Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; * * * or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than $10,000 or imprisoned not more than ten years, or both. * * *

ART. 81. TIME FOR PAYMENT OF TAX.—The tax is payable to the collector of internal revenue for the district in which the return is filed, on or before the statutory due date, which is the last day of July next following the close of the taxable year. For provisions relating to an extension of time for filing the return and paying the tax, see article 37(*b*).

ART. 82. PENALTIES AND INTEREST.—The Act provides that if the tax is not paid when due there shall be added, as part of the tax, interest at the rate of 6 per cent per annum from the time when the tax became due until paid. The due date of the tax is the last day of July next following the close of the taxable year. If payment is deferred beyond the due date interest will accrue from that date irrespective of the reason for the delay in payment and whether or not the time for filing the return has been extended.

Failure to file a return on or before the last day of July next following the close of the taxable year, or in case an extension has been granted, before the expiration of the period of extension, causes to accrue the following graduated scale of penalties: 5 per cent of the amount of the tax if the failure is for not more than 30 days, with an additional 5 per cent for each additional 30 days, or fraction thereof, during which failure continues. Such penalties may not, however, exceed 25 per cent in the aggregate. When it is shown that the failure to file was due to a reasonable cause and not to willful neglect, no such addition to the tax shall be made.

In addition to such interest and penalties, liability for penalties is incurred under provisions of law applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, which penalties are also specifically made applicable in respect of taxes imposed by section 105 of the Revenue Act of 1935, in so far as not inconsistent with the latter section.

If an assessment is made of tax, penalty, or interest, and payment is not made within 10 days after the date of issuance of Form 17 (First notice and demand) based on assessment approved by the Commissioner, there will accrue a penalty of 5 per cent of the total assessment, and interest at the rate of 6 per cent per annum upon the entire assessment from ten days after issuance of Form 17 until date of payment.

If a false or fraudulent return be willfully made, the penalty under section 3176 of the United States Revised Statutes, as amended, is 50 per cent of the total tax due for the entire period involved including any tax previously paid.

Under section 1114 of the Revenue Act of 1926, any corporation which willfully fails to pay any tax due, file a return, or keep records, or attempts in any manner to evade or defeat the tax, is subject to a fine of $10,000, or imprisonment, or both, with costs of prosecution. For willful failure to pay, or a willful attempt in any manner to evade or defeat the tax, the statute also imposes a penalty equal to the amount of the tax not paid, which penalty is assessable in the same manner as the tax. These penalties apply to an officer or employee who, as such officer or employee, is under a duty to perform the act in respect of which the violation occurs.

CHAPTER IX. MISCELLANEOUS PROVISIONS

ART. 91. ADMINISTRATIVE PROVISIONS.—Section 105 (d) of the Act makes applicable to the capital stock tax all provisions of law applicable in respect of taxes imposed by section 600 of the Revenue Act of 1926 in so far as such provisions are not inconsistent with section 105.

Records, Statements, and Special Returns

Section 1102 of the Revenue Act of 1926

(a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

* * * * *

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

Section 3176 of the Revised Statutes, as Amended, and as Further Amended by Section 619 (d) of the Revenue Act of 1928

If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commisisoner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

* * * * *

The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. * * *

EXAMINATION OF BOOKS AND WITNESSES

Section 1104 of the Revenue Act of 1926, as Amended by Section 618 of the Revenue Act of 1928

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

LIMITATION ON ASSESSMENTS AND SUITS BY THE UNITED STATES

Section 1109 of the Revenue Act of 1926, as Amended by Section 619 (a) of the Revenue Act of 1928

SEC. 1109. (a) Except in the case of income, war-profits, excess-profits, estate, and gift taxes—

(1) Notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, all internal-revenue taxes shall (except as provided in paragraph (2) or (3) of this subdivision) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

(2) In case of a false or fraudulent return with intent to evade tax, of a failure to file a return within the time required by law, or of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(3) Where the assessment of any tax imposed by this Act or by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (A) within six years after the assessment of the tax, or (B) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

* * * * *

REFUNDS

Section 3220 of the Revised Statutes, as Amended, and as Further Amended by Section 619 (b) of the Revenue Act of 1928

SEC. 3220. Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section.

Section 3228 (a) of the Revised Statutes, as Amended, and as Further Amended by Section 1106 (a) of the Revenue Act of 1932

SEC. 3228. (a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

INTEREST ON REFUNDS

Section 614 of the Revenue Act of 1928

(a) Interest shall be allowed and paid upon any overpayment in respect of any internal-revenue tax, at the rate of 6 per centum per annum, as follows:

* * * * * * *

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner.

* * * * * * *

JEOPARDY ASSESSMENTS

Section 1105 of the Revenue Act of 1932, as Amended by Section 510 of the Revenue Act of 1934

SEC. 1105. (a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3187 of the Revised Statutes, as amended.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

ART. 92. JEOPARDY ASSESSMENT.—Whenever, in the opinion of the collector, it becomes necessary to protect the interests of the Government by making an immediate assessment and collection of the tax, the case should be promptly reported to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the amount of taxes due, the period involved, and a statement as to the reason for the recommendation, which will reenable the Commissioner to immediately assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable, whereupon the collector will issue immediately a notice and demand for payment of the tax, penalty, and interest.

The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired and with such sureties as the collector deems necessary, conditioned

upon the payment of the amount, collection of which is stayed, at the time at which, but for this section, such amount would be due. In lieu of surety or sureties the taxpayer may deposit with the collector bonds or notes of the United States having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector in case of default to collect or sell such bonds or notes so deposited.

Upon refusal to pay, or failure to pay or give bond, the collector will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period prescribed in section 3187 of the United States Revised Statutes, as amended.

Termination of the Capital Stock Tax Imposed by Section 701 of the Revenue Act of 1934

Section 105(h) of the Revenue Act of 1935

(h) The capital stock tax imposed by section 701 of the Revenue Act of 1934 shall not apply to any taxpayer with respect to any year after the year ending June 30, 1935.

ART. 93. TERMINATION OF CAPITAL STOCK TAX IMPOSED BY SECTION 701 OF THE REVENUE ACT OF 1934.—The capital stock tax imposed by section 701 of the Revenue Act of 1934 shall not apply with respect to any year after the taxable year ended June 30, 1935. The capital stock tax for subsequent years is imposed by section 105 of the Revenue Act of 1935.

Authority for Regulations

Section 1101 of the Revenue Act of 1926

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this Act.

ART. 94. PROMULGATION OF REGULATIONS.—In pursuance of the authority granted by law, the foregoing regulations are hereby prescribed and promulgated.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: May 6, 1936.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[Filed, May 8, 1936; 12:04 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

W. R.—B. 2—Arizona—1 Issued May —, 1936.

1936 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 2—ARIZONA—1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 1, Revised, is hereby supplemented with respect to its application to the State of Arizona, but not otherwise, as follows:

SECTION 1. *Soil Building Practices and Rates of Payment.*—In accordance with the provisions of Section 1, Part II of Western Region Bulletin No. 1, Revised, and subject to the conditions of said bulletin, payment will be made for the carrying out in 1936 of soil building practices, in the State of Arizona, or in such counties thereof as are specified below, as follows:

Practices—Rate of Payment Per Acre—Conditions

(a) Seeding and growing of:

(1) *Biennial or perennial legumes:* $4.00, when seeded on *irrigated* crop land between October 1, 1935, and September 30, 1936, inclusive, and grown in 1936.

(b) Green Manure Crops:

(1) *Small grains:* $1.00, when turned under in 1936 after two months' growth without pasturing or other previous utilization.

(2) *Biennial and perennial legumes:* $2.50, when a growth equivalent to a growth for cutting is turned under between March 1, 1936, and November 30, 1936, inclusive.

(3) *Annual legumes:* $1.00, when a growth equivalent to a growth for cutting is turned under between March 1, 1936, and November 30, 1936, inclusive.

A good stand of legumes will constitute proof of seeding. However, if a good stand is not obtained because of unfavorable weather conditions or insect infestations, such proof may be waived and other proofs accepted, upon recommendation of the State Committee and the approval of the Director of the Western Division.

No payments will be made for any of the practices listed above unless good seed is used and the practices are carried out in a workmanlike manner in conformity with cultural methods recognized as desirable for the locality. In the event that any labor, seed, or materials, used in connection with any of such practices, has been furnished free by any municipal, county, State, or Federal agency, payments may be withheld or reduced by an amount equal to the value of the labor, seed, or materials so furnished.

SECTION 2. *Seeding of Legumes with Nurse or Companion Crops Harvested for Grain or Hay.*—Soil building payments with respect to the seeding of legumes at such rates and under such conditions as are specified in Section 1 (A) above will be made if seeded with a nurse or companion crop harvested for grain or hay: *Provided, however,* That such acreage shall not be regarded as devoted to a soil conserving crop for any purpose whatsoever.

SECTION 3. *Substitutes for Soil Conserving Crops.*—Crop land upon which terracing is effected between March 1, 1936 and July 1, 1936, in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division, shall be regarded as used for the production of a soil conserving crop within the meaning of Section 2, Part IV of Western Region Bulletin No. 1, Revised, for the purpose of fulfilling all requirements of said bulletin with respect to soil conserving crops: *Provided, however,* That no crop is harvested from such land in 1936.

SECTION 4. *Johnson Grass.*—Land devoted to the production of Johnson grass shall not be regarded as used for the production of a soil conserving crop within the meaning of Section 2, Part IV of Western Region Bulletin No. 1, Revised, but shall be regarded as devoted to a neutral use within the meaning of Section 3, Part IV of Western Region Bulletin No. 1, Revised.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:06 p. m.]

W. R.—B. 2—Colorado—1 Issued May —, 1936

1936 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 2—COLORADO—1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 1, Revised, is hereby supplemented with respect to its application to the State of Colorado, but not otherwise, as follows:

SECTION 1. *Soil-Building Practices and Rates of Payment.*—In accordance with the provisions of Section 1, Part II, of Western Region Bulletin No. 1, Revised, and subject to the conditions of said bulletin, payments will be made for the carrying out in 1936 of soil-building practices in the State of Colorado, or in such counties thereof as are specified below, as follows:

Practices—Rate of payment—Conditions

(a) Seeding and growing of:

(1) *Perennial legumes* including alfalfa and white clover: $3.00 per acre, when seeded on irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936; $2.00 per acre, when seeded on nonirrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936.

(2) *Biennial legumes* including red, alsike, and mammoth clovers: $2.50 per acre, when seeded on irrigated crop land be-

tween September 1, 1935, and August 31, 1936, and grown in 1936; $1.50 per acre, when seeded on nonirrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936.

(3) *Biennial sweet clover:* $1.50 per acre, when seeded on irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936; $1.00 per acre, when seeded on non-irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936.

(4) *Annual legumes,* including annual varieties of sweet, bur, and crimson clover: $2.50 per acre, when seeded on irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936; $1.50 per acre, when seeded on non-irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936.

(5) *Perennial grasses:* $3.00 per acre, when seeded alone or in grass mixtures on irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936; $1.50 per acre, when seeded alone or in grass mixtures on non-irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936.

(6) *Legume and perennial grass mixtures:* $2.50 per acre, when seeded on irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936; $1.50 per acre, when seeded on non-irrigated crop land between September 1, 1935, and August 31, 1936, and grown in 1936.

(b) The Use of Green Manure Crops:

(1) *Perennial and biennial legumes:* $2.50 per acre, when full growth ready for cutting is turned under on irrigated crop land between March 1, 1936, and September 30, 1936; $1.50 per acre, when full growth ready for cutting is turned under on non-irrigated crop land between March 1, 1936, and September 30, 1936.

(2) *Annual legumes,* including cowpeas and field peas: $1.00 per acre, when seeded on crop land between March 1, 1936, and June 30, 1936, and plowed under after attaining at least two months' growth.

(3) *Winter cover crops,* including small grains: $1.00 per acre, when seeded on crop land between September 1, 1935, and December 1, 1935, and plowed under in the spring of 1936.

(4) *Summer cover crops:* $1.00 per acre, when seeded on crop land between March 1, 1936, and July 31, 1936, and plowed under after attaining at least two months' growth.

(c) Establishment of Strip Cropping and Fallowing: $1.00 per acre, strips not less than 1 rod wide and not more than 20 rods wide, and in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division. Payment to be only on the acreage fallowed, and only on an amount of land used for this practice in 1936 which is in excess of any amount used in 1935 for the same purpose.

(d) Maintenance of Fall or Winter Listing: $0.50 per acre, when 1936 crop acreage is handled in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

(e) Planting of Forest Trees: $5.00 per acre, when planted on crop land between January 1, 1936, and September 30, 1936.

(f) Establishment of Terraces: $2.00 per acre, on crop land between August 1, 1935, and July 31, 1936.

A good stand of legumes or grass crops will constitute proof of seeding. However, if a good stand is not obtained because of unfavorable weather conditions or insect infestations, such proof may be waived and other proofs accepted upon recommendation of the State Committee and approval by the Director of the Western Division.

No payments will be made for any of the practices listed above unless good seed is used and the practices are carried out in a workmanlike manner in conformity with cultural methods recognized as desirable for the locality. In the event that any labor, seed, or materials used in connection with any of such practices has been furnished free by any municipal, county, state, or Federal agency, payments may be withheld or reduced by an amount equal to the value of the labor, seed, or materials so furnished.

SECTION 2. *Seeding of Grasses or Legumes with Nurse or Companion Crops Harvested for Grain or Hay.*—Soil-building payments with respect to the seeding of grasses and legumes at such rates and under such conditions as are specified in Section 1 (a) above will be made if seeded with a nurse or companion crop harvested for grain or hay: *Provided, however,* That such acreage shall not be regarded as devoted to a soil-conserving crop for any purpose whatsoever.

SECTION 3. *Soil-Building Practices which may be Substituted for Soil-Conserving Crops.*—For the counties of Logan, Sedgwick, Phillips, Washington, Yuma, Lincoln, Kit Carson, Cheyenne, Crowley, Kiowa, Otera, Bent, Prowers, Las Animas, Baca, and such other counties or parts of counties as may be recommended by the State Committee and approved by the Director of the Western Division, crop land on which the following soil-building practices are carried out in 1936 shall be regarded as land used for the production of a soil-conserving crop within the meaning of Section 2, Part IV, of Western Region Bulletin No. 1, Revised, for the purpose of fulfilling all requirements of said bulletin with respect to soil-conserving crops:

(a) Controlled summer fallowing when practiced in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

(b) Strip cropping and fallowing when practiced in accordance with the provisions of Section 1 (c) above.

(c) Fall or winter listing when maintained and practiced in accordance with the provisions of Section 1 (d) above.

(d) Contour listing of crop land in the process of natural reseeding to native pasture when sufficient natural cover is maintained to insure protection against wind erosion, *Provided,* however, that such land is not grazed in any manner whatsoever.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:04 p. m.]

W. R.—Kansas—1 Issued May —, 1936

1936 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 2—KANSAS—1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 1, Revised, is hereby supplemented with respect to its application to the State of Kansas, but not otherwise, as follows:

SECTION 1. *Soil-Building Practices and Rates of Payment.*—In accordance with the provisions of Section 1, Part II of Western Region Bulletin No. 1, Revised, and subject to the conditions of said bulletin, payments will be made for the carrying out in 1936 of soil-building practices in the State of Kansas, or in such counties thereof as are specified below, as follows:

Practices—Rate of Payment—Conditions

(a) Seeding and growing of:

(1) *Perennial legumes,* including alfalfa, sericea and white clover: $2.00 per acre, when seeded on crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(2) *Biennial legumes,* including red, alsike, and mammoth clovers: $1.50 per acre, when seeded on crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(3) *Biennial sweet clover:* $1.00 per acre, when seeded on crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(4) *Annual legumes,* including annual varieties of sweet clover, vetch, bur, and crimson clover: $1.50 per acre, when seeded on crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(5) *Lespedeza:* $1.00 per acre, when seeded on crop land between January 1, 1936, and August 31, 1936.

(6) *Perennial Grasses:* $2.00 per acre, when seeded alone or in grass mixtures on crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(7) *Legume and grass mixtures:* $2.00 per acre, when seed on crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(b) The use of green manure crops:

(1) *Annual legumes,* including soybeans, cowpeas, and field peas: $1.00 per acre, when seeded on crop land between March 1, 1936, and June 30, 1936, and plowed under after attaining at least two months' growth.

(2) *Winter cover crops,* including small grains: $1.00 per acre, when seeded on crop land between September 1, 1935, and December 1, 1935, and plowed under in the spring of 1936.

(3) *Summer Cover Crops:* $1.00 per acre, when seeded on crop land between March 1, 1936, and July 31, 1936, and plowed under after attaining at least two months' growth.

(c) Establishing of Strip Cropping and Fallowing: $1.00 per acre, strips not less than 1 rod wide and not to exceed 20 rods wide and in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

Payment shall be made only on the acreage fallowed, and only on an amount of land used for this practice in 1936 which is in excess of any amount used in 1935 for the same purpose.

(d) Planting of Forest Trees: $5.00 per acre, when planted on crop land between January 1, 1936, and September 30, 1936.

(e) Application of Ground Limestone: $2.50 per acre, applied on crop land between January 1, 1936, and July 31, 1936, at a rate not less than 2 tons per acre.

(f) Establishment of Terraces: $2.00 per acre, on crop land between August 1, 1935, and July 31, 1936.

A good stand of legumes or grass crops will constitute proof of seeding. However, if a good stand is not obtained because of unfavorable weather conditions or insect infestations, such proof may be waived and other proofs accepted upon recommendation of the State Committee and approval by the Director of the Western Division.

No payments will be made for any of the practices listed above unless good seed is used and the practices are carried out in a workmanlike manner in conformity with cultural methods recognized as desirable for the locality. In the event that any labor, seed, or materials used in connection with any of such practices has been furnished free by any municipal, county, state, or Federal agency, payments may be withheld or reduced by an amount equal to the value of the labor, seed, or materials so furnished.

SECTION 2. *Seeding of Grasses or Legumes with Nurse or Companion Crops Harvested for Grain or Hay.*—Soil-building payments with respect to the seeding of grasses and legumes at such rates and under such conditions as are specified in Section 1 (a) above will be made if seeded with a nurse or companion crop harvested for grain or hay: *Provided, however*, that such acreage shall not be regarded as devoted to a soil-conserving crop for any purpose whatsoever.

SECTION 3. *Soil-Building Practices Which May Be Substituted for Soil-Conserving Crops.*—For the counties of Greeley, Wichita, Scott, Lane, Ness, Hamilton, Kearny, Finney, Hodgeman, Stanton, Grant, Haskell, Gray, Ford, Morton, Stevens, Seward, Meade, Clark, and such other counties or parts of counties as may be recommended by the State Committee and approved by the Director of the Western Division, crop land upon which the following soil-building practices are carried out shall be regarded as land used for the production of a soil-conserving crop within the meaning of Section 2, Part IV, of Western Region Bulletin No. 1, Revised, for the purpose of fulfilling all requirements of said bulletin with respect to soil-conserving crops:

(a) Controlled summer fallowing when practiced in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

(b) Strip cropping and fallowing when practiced in accordance with the provisions of Section 1 (c) above.

(c) Contour listing of crop land in the process of natural reseeding to native pasture when sufficient natural cover is maintained to insure protection against wind erosion, *Provided, however*, that such land is not grazed in any manner whatsoever.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:05 p. m.]

W. R.—B. 2—Nevada—1 Issued May —, 1936

1936 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 2—NEVADA—1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 1, Revised, is hereby supplemented with respect to its application to the State of Nevada, but not otherwise, as follows:

SECTION 1. *Soil Building Practices and Rates of Payment.*—In accordance with the provisions of Section 1, Part II of Western Region Bulletin No. 1, Revised, and subject to the conditions of said bulletin, payment will be made for the carrying out in 1936 of soil building practices in the State of Nevada, as follows:

Practices—Rate—Conditions

(a) New Seedings:[1]

(1) *Perennial Legumes*, including alfalfa, sericea, and white clover: $3.50 per acre, when seeded on *irrigated* crop land between September 16, 1935, and September 15, 1936; $2.00 per acre, when seeded on *non-irrigated* crop land between September 16, 1935, and September 15, 1936.

(2) *Biennial Legumes*, including sweet, red, alsike, and Mammoth clovers: $2.50 per acre, when seeded on *irrigated* crop land between September 16, 1935, and September 15, 1936; $1.50 per acre, when seeded on *non-irrigated* crop land between September 16, 1935, and September 15, 1936.

(3) *Annual Legumes*, including bur, sour, and crimson clovers, annual varieties of sweet clover and lespedeza, and sesbania: $1.50 per acre, when seeded on *irrigated* crop land between September 16, 1935, and September 15, 1936; $1.00 per acre, when seeded on *non-irrigated* crop land between September 16, 1935, and September 15, 1936.

(4) *Perennial Grasses*, including permanent pasture mixtures: $4.00 per acre, when seeded on *irrigated* crop land between September 16, 1935, and September 15, 1936; $2.00 per acre, when seeded on *non-irrigated* crop land between September 16, 1935, and September 15, 1936.

(b) Green Manure Crops: $2.00 per acre, when seeded on *crop land or interplanted in orchards* between September 16, 1935, and September 15, 1936, whether pastured or not, and plowed under in the spring of 1936, if fall seeded, or otherwise after having attained at least two months' growth.

(c) Forest Trees: $5.00 per acre, when planted on *crop land* between September 16, 1935, and September 15, 1936.

(d) Protected Summer Fallow:

(1) *Contour Cultivation:* $1.00 per acre, when effected on *non-irrigated* crop land in accordance with specifications as recommended by the State Committee and approved by the Director of the Western Division.

(2) *Approved Fallow:* $0.50 per acre, when effected on *crop land* in accordance with specifications as recommended by the State Committee and approved by the Director of the Western Division.

(e) Perennial Weed Eradication:

(1) *Chemical Treatment:* $10.00 per acre, when effected on *seriously infested plots*, location of which is filed with the County Committee before practices are instituted, and when controlled by application of chemicals and periodic cultivation in accordance with the recommendations of the State Experiment Station, provided, that the total acreage of such plots upon which payment shall be made shall not be in excess of 15 percent of the total soil depleting base.

(2) *Periodic Cultivation:* $5.00 per acre, when effected on *seriously infested plots*, location of which is filed with the County Committee before practices are instituted, and when controlled by periodic cultivation in accordance with the recommendations of the State Experiment Station, provided that the total acreage of such plots upon which payment shall be made shall not be in excess of 15 percent of the total soil depleting base.

No payments will be made for any of the practices listed above unless good seed is used and the practices are carried out in a workmanlike manner in conformity with cultural methods recognized as desirable for the locality. In the event that any labor, seed, or materials used in connection with any of such practices has been furnished free by any municipal, county, state, or Federal agency, payments may be withheld or reduced by the amount equal to the value of the labor, seed, or materials so furnished.

SECTION 2. *Seeding of Grasses or Legumes with Nurse or Companion Crops Harvested for Grain or Hay.*—Soil building payments with respect to the seeding of grasses and legumes at such rates and under such conditions as are specified in Section 1 above will be made if seeded with a nurse or companion crop harvested for grain or hay: *Provided, however*, That the acreage so seeded shall not be regarded as devoted to a soil conserving crop for any purpose whatsoever.

SECTION 3. *Soil Building Practices Substituted for Soil Conserving Crops.*—Crop land upon which the following soil building practices are carried out in 1936 shall be regarded as devoted to a soil conserving crop within the meaning of Section 2, Part IV, of Bulletin No. 1, Revised, for the purpose of

[1] With respect to the seeding of grasses or legumes previous to January 1, 1936 a good stand of such grasses or legumes at the time of farm inspection shall constitute proof of performance.

fulfilling all requirements of said bulletin with respect to soil conserving crops:

(a) Protected summer fallow when practiced in accordance with the provisions of Section 1 (d) above;

(b) Perennial weed eradication practices when effected in accordance with the provisions of Section 1 (e) above.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:04 p. m.]

W. R.—B. 2—New Mexico—1 Issued April —, 1936

1936 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 2—NEW MEXICO—1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 1, Revised, is hereby supplemented with respect to its application to the State of New Mexico, but not otherwise, as follows:

SECTION 1. *Soil Building Practices and Rates of Payment.*—In accordance with the provisions of Section 1, Part II, of Western Region Bulletin No. 1, Revised, and subject to the conditions of said bulletin, payment will be made for the carrying out in 1936 of such soil building practices, in the State of New Mexico, or in such counties thereof as are specified below, as follows:

Practices—Rate of payment—Conditions

(a) Seeding and Growing of:

(1) *Perennial legumes*—alfalfa: $4.00 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, inclusive, and grown in 1936; $2.00 per acre, when seeded on nonirrigated crop land between October 1, 1935, and September 30, 1936, inclusive, and grown in 1936.

(2) *Annual legumes*—annual varieties of sweet clover and sesbania: $3.00 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, inclusive, and grown in 1936; $1.50 per acre, when seeded on non-irrigated crop land between October 1, 1935, and September 30, 1936, inclusive, and grown in 1936.

(3) *Lespedeza:* $1.00 per acre, when seeded on crop land between January 1, 1936, and September 30, 1936, inclusive.

(b) Green Manure Crops:

(1) *Perennial legumes*—alfalfa: $2.50 per acre, when turned under with one cutting growth between March 1, 1936, and September 30, 1936, inclusive.

(2) *Winter cover crops*—small grains: $1.00 per acre, when seeded on crop land between September 1, 1935, and November 1, 1935, inclusive, and grown and turned under in the spring of 1936.

(3) *Summer cover crops:* $1.00 per acre, when seeded on crop land between March 1, 1936, and July 1, 1936, inclusive, and turned under after attaining at least two months' growth.

(c) Contour Strip Cropping and Fallow: $1.00 per acre, for the counties of Union, Harding, Quay, and Curry and such other counties as may be recommended by the State Committee and approved by the Director of the Western Division, when strips of sorghums or sudan grass are planted in 1936 with intervening strips of fallow and when such strip crops occupy one-third or more of the acreage so strip cropped and fallowed, and are left unharvested in 1936: *Provided*, that only the area planted to strip crops is to be used in computing acreage.

(d) Establishment of Terraces: $3.00 per acre, when effected between August 1, 1935, and July 1, 1936, inclusive, on crop land in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division. Terraces must be planted and left unharvested.

A good stand of legumes or grass crops will constitute proof of seeding. However, if a good stand is not obtained because of unfavorable weather conditions or insect infestations, such proof may be waived and other proofs accepted, upon recommendation of the State Committee and the approval of the Director of the Western Division.

No payments will be made for any of the practices listed above unless good seed is used and the practices are carried out in a workmanlike manner in conformity with cultural methods recognized as desirable for the locality. In the event that any labor, seed, or materials used in connection with any of such practices has been furnished free by any municipal, county, state, or Federal agency, payments may be withheld or reduced by an amount equal to the value of the labor, seed, or materials so furnished.

SECTION 2. *Seeding of Grasses or Legumes with Nurse or Companion Crops Harvested for Grain or Hay.*—Soil building payments with respect to the seeding of grasses and legumes at such rates and under such conditions as are specified in Section 1 (a) above will be made if seeded with a nurse or companion crop harvested for grain or hay: *Provided, however*, that such acreage shall not be regarded as devoted to a soil conserving crop for any purpose whatsoever.

SECTION 3. *Substitutes for Soil-Conserving Crops.*—Crop land upon which the following practices are carried out in 1936 shall be regarded as devoted to a soil-conserving crop within the meaning of Section 2, Part IV of Western Region Bulletin No. 1, Revised, for the purpose of fulfilling all requirements of said bulletin with respect to soil-conserving crops:

(a) Terracing when effected in accordance with the provisions of Section 1 (d) above.

(b) In the counties of Union, Harding, Quay, and Curry, and such other counties or parts of counties as may be recommended by the State Committee and approved by the Director of the Western Division, the following practices:

(1) Contour strip cropping and fallowing when practiced in accordance with the provisions of Section 1 (c) above.

(2) Sudan grass or sorghums, when plowed under as green manure or left standing unharvested.

(3) Solid contour listing of crop land without cover crops, or with cover crops if unharvested.

(4) Border planting of fields where strips are 100 feet wide or more, if left unharvested, *provided*, however, that only the area so planted shall be considered in computing the acreage devoted to this practice.

(5) Contour strip planting of winter grains when width of strips is not less than 15 feet nor the distance between strips more than 150 feet, and strip crops are not harvested, *provided*, however, that only the area planted to strip crops shall be considered in computing the acreage devoted to this practice.

(6) Controlled summer fallow when effected in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

(7) Contour listing of crop land in the process of natural reseeding to native pasture when sufficient natural cover is maintained to insure protection against wind erosion, *provided, however*, that such land is not grazed in any manner whatsoever.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:03 p. m.]

W. R.—B. 2—Wyoming—1 Issued May —, 1936

1936 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 2—WYOMING—1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 1, Revised, is hereby supplemented with respect to its application to the State of Wyoming, but not otherwise, as follows:

SECTION 1. *Soil-Building Practices and Rates of Payment.*—In accordance with the provisions of Section 1, Part

II, of Western Region Bulletin No. 1, Revised, and subject to the conditions of said bulletin, payments will be made for the carrying out in 1936 of soil-building practices in the State of Wyoming, or in such counties thereof as are specified below, as follows:

Practices—Rate of payment—Conditions

(a) Seeding and growing of:

(1) *Alfalfa:* $3.00 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936; $2.00 per acre, when seeded on non-irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(2) *Red, alsike, and mammoth clovers:* $2.50 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936; $1.50 per acre, when seeded on non-irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(3) *Biennial sweet clover:* $1.50 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936; $1.00 per acre, when seeded on non-irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(4) *Annual varieties of sweet clover:* $2.50 per acre, when seeded on irrigated crop land between January 1, 1936, and September 30, 1936; $1.50 per acre, when seeded on non-irrigated crop land between January 1, 1936, and September 30, 1936.

(5) *Legume mixtures:* $2.00 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936; $1.00 per acre, when seeded on non-irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(6) *Perennial grasses:* $3.00 per acre, when seeded alone or in grass mixtures on irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936; $1.50 per acre, when seeded alone or in grass mixtures on non-irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(7) *Legume and perennial grass mixtures:* $2.50 per acre, when seeded on irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936; $1.50 per acre, when seeded on non-irrigated crop land between October 1, 1935, and September 30, 1936, and grown in 1936.

(b) Establishment of Strip Cropping and Fallowing: $1.00 per acre, strips not less than 1 rod wide and not to exceed 20 rods wide, and in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division. Payment to be only on the acreage fallowed, and only on an amount of land used for this practice in 1936 which is in excess of any amount used in 1935 for the same purpose.

(c) Maintenance of Fall or Winter Listing: $0.50 per acre, when 1936 crop acreage is handled in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

(d) Planting of Forest Trees: $5.00 per acre, when planted on crop land between January 1, 1936, and September 30, 1936.

(e) Establishment of Terraces: $2.00 per acre, on crop land between January 1, 1936, and September 1, 1936.

A good stand of legumes or grass crops will constitute proof of seeding. However, if a good stand is not obtained because of unfavorable weather conditions or insect infestations, such proof may be waived and other proofs accepted upon recommendation of the State Committee and approval by the Director of the Western Division.

No payments will be made for any of the practices listed above unless good seed is used and the practices are carried out in a workmanlike manner in conformity with cultural methods recognized as desirable for the locality. In the event that any labor, seed, or materials used in connection with any of such practices has been furnished free by any municipal, county, state, or Federal agency, payments may be withheld or reduced by an amount equal to the value of the labor, seed, or materials so furnished.

SECTION 2. *Seeding of Grasses or Legumes with Nurse or Companion Crops Harvested for Grain or Hay.*—Soil-building payments with respect to the seeding of grasses and legumes at such rates and under such conditions as are specified in Section 1 (a) above will be made if seeded with a nurse or companion crop harvested for grain or hay: *Provided, however,* That such acreage shall not be regarded as devoted to a soil-conserving crop for any purpose whatsoever.

SECTION 3. *Soil-Building Practices which may be Substituted for Soil-Conserving Crops.*—For the counties of Laramie, Platte, Goshen, Niobrara, Converse, Natrona, and such other counties or parts of counties as may be recommended by the State Committee and approved by the Director of the Western Division, crop land on which the following soil-building practices are carried out in 1936 shall be regarded as land used for the production of a soil-conserving crop within the meaning of Section 2, Part IV, of Western Region Bulletin No. 1, Revised, for the purpose of fulfilling all requirements of said bulletin with respect to soil-conserving crops:

(a) Controlled summer fallowing when practiced in accordance with specifications recommended by the State Committee and approved by the Director of the Western Division.

(b) Strip cropping and fallowing when practiced in accordance with the provisions of Section 1 (b) above.

(c) Fall or winter listing when maintained and practiced in accordance with the provisions of Section 1 (c) above.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:05 p. m.]

1936 AGRICULTURAL CONSERVATION PROGRAM—SOUTHERN REGION

BULLETIN NO. 3—INSTRUCTIONS ON ESTABLISHING BASES AND INSTRUCTIONS ON FILLING OUT WORK SHEETS

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act the following instructions are issued to supplement the provisions contained in Southern Region Bulletin No. 1, Revised, and Southern Region Bulletin No. 2, in connection with the effectuation of the purposes of section 7 (a) of said act for 1936:

Part I. Conditions of General Application

Pursuant to the provisions contained in Part III, "Establishment of Bases", Southern Region Bulletin No. 1, Revised (hereinafter referred to as "Bulletin 1"), a total soil-depleting base, a general soil-depleting base, and soil-depleting bases for individual crops shall be established for each farm for which a work sheet (Form S. R. 1) is submitted. Likewise pursuant to the provisions contained in part II, "Rates and Conditions of Payment", sections 2, 3, and 4, of Bulletin 1, a yield per acre and a productivity index shall be established for each farm for which a work sheet is submitted.

SECTION 1. *Total, General, Sugarcane, and Rice Soil-Depleting Bases and Yields per Acre.*—A total soil-depleting base, a general soil-depleting base, a sugarcane soil-depleting base, and a rice soil-depleting base shall be established in accordance with provisions contained in part III of Bulletin 1, subject to such adjustments as are outlined in this Bulletin 3 or supplements hereto. Pursuant to the provisions of part II of Bulletin 1, a yield per acre or productivity index shall likewise be established subject to such adjustments as are contained in this Bulletin 3 or supplements hereto.

SECTION 2. *Acreage Diverted from Soil-Depleting Crops.*—Only that acreage of crop land seeded in 1936 to soil-conserving crops from which no soil-depleting crop is harvested in 1936 shall be counted in determining the acreage diverted from any soil-depleting base to the production of any soil-conserving crop pursuant to the provisions of section 2 of part II of Bulletin 1, except that acreage of crop land in soil-conserving crops, seeded prior to 1936, may be counted in such determination if all the crop land on the farm is used in 1936 for the production of soil-conserving and soil-depleting crops.

SECTION 3. *Acreage of Interplanted Crops.*—In determining the base acreage for the farm, filling out the work sheet, and in checking the acreage of crops in the determination of performance:

a. The acreage of any soil-depleting crop (other than corn, sweet corn, grain sorghum, and sweet sorghum) interplanted with legumes shall be considered as 100 percent soil-depleting acreage regardless of whether or not legumes were interplanted with such crops prior to or in 1936.

b. The acreage of corn, sweet corn, grain sorghum, and sweet sorghum when interplanted with summer legumes prior to or in 1936 shall be classed according to the actual amount of such acreage occupied by each interplanted crop; provided that in no event will the legume acreage be counted as such unless the legumes occupy at least one-third of such land and attain a good growth; and provided further, that when corn or sweet corn is interplanted with legumes the number of stalks of corn per acre shall not exceed that number determined by multiplying by 9,000 the percentage of the acreage determined to be occupied by corn.

SECTION 4. *Soil-Conserving Payment in Connection with Interplanted Crops and Small Grains Followed by Legumes.*—No soil-conserving payment shall be made pursuant to the provisions of section 2 of part II of Bulletin 1 with respect to the diversion of acreage of food and feed grains from the general soil-depleting base to soil-conserving crops, if such diversion is accomplished by changing from the planting alone of crops in the general soil-depleting base prior to 1936, to the interplanting of such crops with legumes in 1936, or if such diversion is accomplished by changing from small grains not followed by summer legumes, prior to 1936, to small grains followed by summer legumes in 1936.

SECTION 5. *Determination of the Productivity Index for the Farm.*—The productivity of the land devoted to crops in the general soil-depleting base will be determined as follows:

The county committee, subject to the approval of the State committee, will designate the major soil-depleting crop in each county or designated parts of such county and will designate two alternate major soil-depleting crops from among the crops for which the county yield data are available.[1] If cotton is the major soil-depleting crop in the county it should be designated as the major soil-depleting crop for farms in the county.

The 2-year 1934–35 average yield per acre for the farm of the designated major soil-depleting crop compared with the county average yield per acre of the same crop for these two years will be used wherever applicable as a measure of the productivity of land for the crops in the general soil-depleting base. If the designated major crop does not fairly reflect the productivity, then whichever one of the two alternate crops will be the more accurate measure shall be used; or if the county committee finds that the productivity of the farm is not accurately measured by the yield of any one of these three crops, the committee will designate another crop for which it determines the 1934–35 average yield will most accurately measure the productivity of the land for the crops in the general soil-depleting base. County average yields to be used for this purpose will be supplied by the Agricultural Adjustment Administration.

The productivity index of the farm shall be determined by dividing the yield of the crop so designated for the farm by the county average yield of the same crop and multiplying this result by 100. For instance, if the county committee designates cotton as the major soil-depleting crop on the farm and if the county average yield of cotton is 200 pounds per acre and the average yield for the farm is 250 pounds per acre, the productivity index will be 125 derived by dividing 250 by 200 and multiplying the result by 100. This means that the land for the particular farm is determined to be 25 percent more productive than the average land in the county. However, if the county committee determines that the productivity index thus determined for the farm is not truly representative of the productivity of the farm as compared to other farms in the county having similar soils, the productivity index shall be adjusted so as to be fair and equitable as compared to other such farms in the county. The average of the productivity indexes for all the farms in the county weighted by the respective general soil-depleting bases for such farms shall in no case exceed 100 unless the variance from such index is recommended by the State committee and approved by the Agricultural Adjustment Administration. This means that the general soil-depleting base established for each farm will be multiplied by the respective productivity index established for the farm and the sum of these products divided by the total acreage in the general soil-depleting bases shall not exceed 100 unless the exception noted above is properly made.

The rate per acre of the soil-conserving payment for any farm for diversion from the general soil-depleting base will be determined by multiplying the county rate per acre for such payment by the productivity index for the farm divided by 100.

SECTION 6. *Fractional Acres.*—Fractional acres shall be expressed to the nearest tenth of an acre. Hundredths amounting to five or less shall be dropped and hundredths amounting to more than five shall be considered as a whole tenth.

SECTION 7. *Time Limit for Filing Work Sheets and Applications.*—A time limit for filing work sheets and applications in each county shall be designated by the State committee subject to the approval of the Director of the Southern Division.

Part II. Establishment of Bases of Individual Crops and Average Yield Per Acre

A cotton soil-depleting base, a peanut soil-depleting base, and a tobacco soil-depleting base shall be established in accordance with the provisions contained in part III of Bulletin 1, subject to such adjustments as are outlined in this Bulletin 3 or supplements hereto. Pursuant to the provisions of part II of Bulletin 1, a yield per acre shall likewise be established subject to such adjustments as are contained in this Bulletin 3 or supplements hereto.

A. Cotton Soil-Depleting Base and Average Yield of Lint Per Acre

SECTION 1. *Farms for which a Cotton Soil-Depleting Base May Be Established.*—A cotton soil-depleting base may be established for a farm:

(a) If one whole acre or more of cotton was planted on such farm in 1934 and/or 1935; or

(b) If the entire base cotton acreage was rented in both 1934 and 1935 to the Secretary under a CARC[2]; or

(c) If failure to plant thereon in the years 1934 and 1935 was caused by drought, flood, or excessive rains which, for the same period of time, prevented the commercial production of other agricultural commodities on the land so affected, provided that cotton was planted in either or both of the years 1932 and 1933.

SECTION 2. *Designation of Yield.*—The yield of lint cotton per acre for each farm for which a work sheet is filed shall, in accordance with the following standard, be designated by the appropriate community committee, subject to such adjustment by the county committee as is necessary in order that the total base cotton production for all farms in the county for which work sheets are submitted shall not exceed their proportionate share of the county's production quota.

Each farm covered by a work sheet shall have been inspected by at least one member of the community committee, serving for the community in which the farm is located, who shall report the facts to the community committee before the yield of lint is designated for the farm. The yield designated for any farm shall be that yield which the community committee finds from all the available facts to be the yield which could have been reasonably expected from the land devoted to the production of cotton on the farm as an average yield during the 5-year period 1928–32. Such findings shall be examined by the county committee in the light of all available facts and approved or modified by

[1] Including corn, wheat, oats, barley, rye, buckwheat, grain sorghums, soybeans, dry edible beans, potatoes, sweet potatoes, sorghum for syrup, broom corn, cotton, tobacco, and peanuts.

[2] The term CARC as used herein refers to the 1934 and 1935 Cotton Acreage Reduction Contract (Form No. Cotton 1, or Form No. Cotton 1 as supplemented for 1935 by Form No. Cotton 102 or 104, or Form No. Cotton 101) and when used with reference to the farm means such a contract which covered the farm and was accepted by the Secretary.

it accordingly. In designating such yield, the committees shall give the greatest weight to the yield per acre of cotton which was produced on the farm during such of the 8 years 1928–35 as cotton was produced thereon. However, in designating the yield due consideration shall be given by the committees to the trend of yield per acre as well as to the effect on the yield per acre of the type of soil, drainage, erosion, and fertility of land. Other facts bearing on the yield which might have been reasonably expected from this land during the 1928–32 period, including unusual weather conditions, shall be given due weight in designating the yield. Since in some cases records are not available with which to determine the 5-year cotton history during the period 1928–32 for the farm, the 3 years 1933–35 may be used to indicate what such farm would have produced in the 5-year period. For example, if production figures for the farm show an average yield of 200 pounds of lint cotton per acre and the 5-year 1928–32 average yield for the community is 10 percent lower or higher than the 3-year 1933–35 average yield for the community, the average yield for the farm for the 3 years 1933–35 should be reduced or raised 10 percent, as the case may be.

No community or county committeeman shall have a voice in designating or approving the yield for any farm which he owns, operates, or controls, or which is owned, operated, or controlled by his brother, sister, parent, child, or other near relative, or upon which he has a loan or in which he has a financial interest.

SECTION 3. *Basis Used in Determining the Cotton Soil-Depleting Base.*—The cotton soil-depleting base shall be determined upon whichever one of the following bases is applicable:

(*a*) If the farm was covered in 1935 by a CARC, the base shall be determined upon the basis of the base acreage accepted in 1935 by the Secretary of Agriculture under such CARC *except* that if the acreage planted to cotton in 1935 was substantially below the acreage which could have been planted to cotton within the terms of the CARC, and it is not shown that such failure to so plant was due to causes over which the CARC signer had no control, or for the purpose of bringing the reasonably expected production within the Bankhead allotment for the farm for 1935, the planted acreage in 1935 plus the rented acreage in 1935 shall be used in determining the base for the farm.[3]

(*b*) If the farm was not covered in 1935 by a CARC, the base shall be determined upon the basis of the first applicable combination of years in order of presentation below:

(1) If cotton was planted in 4 or 5 years of the period 1928–32, the base shall be determined upon the basis of the total acreage planted to cotton during the 4 or 5 years divided by 4 or 5, as the case may be.

(2) If cotton was planted in only 3 years of the period 1928–32, one of which was either 1931 or 1932, the base shall be determined upon the basis of the total acreage planted to cotton during the 3 years divided by 3.

(3) If cotton was planted in only 1931 and 1932, the base shall be determined upon the basis of the total acreage planted to cotton during the 2 years divided by 2.

(4) If cotton was planted in 1932 and in 1933, but neither (1), (2), nor (3) above is applicable, the base shall be determined upon the basis of the total acreage planted to cotton during the 2 years divided by 2.

(5) If cotton was planted in 1933 but neither (1), (2), (3), nor (4) above is applicable, the base shall be determined upon the basis of the actual acreage planted to cotton in 1933 (irrespective of the fact that cotton may have been planted in 1931).

(6) If cotton was planted in 1934 and 1935 but not in 1933, and neither (1), (2), (3), nor (4) above is applicable, the base shall be determined upon the basis of the total acreage planted to cotton during the 2 years divided by 2, provided that the average acreage so determined shall not be a greater percentage of the total acreage in cultivation on the farm in 1935 than the pertinent percentage.[4]

(7) If cotton was planted in 1934 or 1935 but not in 1933, and neither (1), (2), (3), nor (6) above is applicable, the base shall be determined upon the basis of the actual acreage planted to cotton in such year, provided that the acreage stipulated as the acreage planted to cotton in such year on the farm shall not be a greater percentage of the total acreage in cultivation on the farm in 1935 than the pertinent percentage.[4]

B. Peanut Soil-Depleting Base and Average Yield Per Acre

SECTION 4. *Farms for Which a Peanut Soil-Depleting Base May Be Established.*—A peanut soil-depleting base may be established for a farm if peanuts were produced on one whole acre or more on the farm in:

(a) 1933 and/or 1934; or

(b) 1935 and in either or both of the years 1931 and 1932 but not in 1933 and 1934.

SECTION 5. *Determination of Yield.*—Yield of peanuts per acre for each farm for which a work sheet is filed shall be recommended by the appropriate community and county committee in accordance with the following:

(a) The average yield per acre on the farm in the two years 1934 and 1935; or

(b) Such yield per acre, greater or less than such 1934 and 1935 average yield, as is determined to be the average yield for the neighboring farms having similar soils for the production of peanuts.

SECTION 6. *Basis Used Determining the Peanut Soil-Depleting Base.*—The peanut soil-depleting base shall be determined upon whichever one of the following bases is applicable.[5]

(a) If the farm was covered in 1935 by a peanut production adjustment contract, the base shall be determined upon the basis of the peanut acreage allotted by the Secretary of Agriculture in 1935 under such contract.

(b) If the farm was not covered in 1935 by a peanut production adjustment contract, the base shall be determined in accordance with the following:

(1) If peanuts were produced in either or both of the years 1933 and 1934, the base shall be determined upon the basis of whichever one of the following is the largest:

(a) The average acreage of peanuts on the farm in the years 1933 and 1934 (such acreage to be determined by dividing the total acreage in such years by 2); or

(b) 90 percent of the acreage of peanuts on the farm in 1933; or

(c) 90 percent of the acreage of peanuts on the farm in 1934.

(2) If peanuts were produced in 1935 and in either or both of the years 1931 and 1932 and no peanuts were produced in either 1933 or 1934, the base shall be determined upon the basis of whichever one of the following is the largest:

(a) 75 percent of the average acreage of peanuts on the farm in the years 1931 and 1932 (such average to be determined by dividing the total acreage in such years by 2); or

(b) 60 percent of the acreage of peanuts on the farm in 1931; or

(c) 60 percent of the acreage of peanuts on the farm in 1932.

(c) A peanut soil-depleting base, greater or less than that determined pursuant to a or b above, which is determined by the committee to be fair and equitable for the farm in re-

[3] In the event that more recent information establishes that the base acreage for a farm stipulated in a CARC was not correct, the community committee, subject to the approval of the county committee, shall use the true figure in determining the base.

[4] That percentage which the sum of the acreage planted to cotton in the county by CARC signers in 1935, plus the acreage rented to the Secretary in the county in 1935, is of the total acreage in cultivation in 1935 on farms under CARC in 1935 in the county in which the farm is located, such percentage being determined by the State committee from the official statistics.

[5] The peanut soil-depleting base for one or more farms owned or operated by the same person in the county may not exceed the base which could have been established for such farms had they been included in one work sheet.

lation to neighboring farms having similar soils and facilities for the production of peanuts, taking into account the crop land on the farm, the number of families growing peanuts on the farm in 1935, and the peanut history of the farm.

C. Tobacco Soil-Depleting Base and Yield Per Acre

Separate soil-depleting bases will be established for flue-cured tobacco, Burley tobacco, Georgia-Florida type 62, Georgia-Florida type 45, and other types of tobacco.

The tobacco soil-depleting base for flue-cured tobacco or Burley tobacco for a farm shall be the base acreage which was established or could have been established for such farm under the procedure for 1934–1939 tobacco adjustment program, subject to adjustment as provided herein.*

The yield per acre of flue-cured tobacco or Burley tobacco for a farm shall be the yield per acre determined under the procedure for 1936–1939 tobacco adjustment program.*

For other kinds of tobacco, the tobacco soil-depleting base and yield per acre shall be established in accordance with instructions to be issued by the Secretary.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has heretofore set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of May 1936.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[Filed, May 7, 1936; 1:06 p. m.]

Food and Drug Administration.

SERVICE AND REGULATORY ANNOUNCEMENTS

FOOD AND DRUG NO. 4, THIRD REVISION, SUPPLEMENT NO. 2

Under the authority conferred by the amendment of July 8, 1930, to the Federal Food and Drugs Act (sec. 8, par. 5, in the case of food), there is hereby promulgated, to become effective 90 days from date, a revision of the standard for canned peas.

H. A. WALLACE,
Secretary of Agriculture.

WASHINGTON, D. C.,
May 8, 1936.

CANNED PEAS

STANDARD OF QUALITY AND CONDITION

60. Standard canned peas are the normally flavored and normally colored canned food consisting of the immature, unbroken seed of the common or garden pea (Pisum sativum), with or without seasoning (sugar, salt), and with or without added potable water. The product is practically free from foreign material and, in the case of products containing added liquid, the liquor present is reasonably clear.

MEANING OF TERMS

61. The term "normally colored", as it relates to the peas, means a naturally developed general effect of green, except that not to exceed 4 percent by count of off-colored peas, such as brown, brown-spotted, white, or yellowish-white peas may be present.

62. The peas are "immature" (1) if 90 percent or more by count are sufficiently soft so that either cotyledon is crushed by a weight of less than 907.2 grams (2 pounds), (2) if not more than 20 percent by weight of the drained peas sink in a brine of 1.12 specific gravity at 68° F., (3) if the alcohol insoluble solids of the drained peas do not exceed 23 percent, and (4) if less than 25 percent of the peas by count are swollen to such an extent as to rupture the skin sufficiently to separate the broken edges one-sixteenth inch or more.

63. The pea seed is "unbroken" if 80 percent or more of the units by count are in such a condition that the two cotyledons are still held together by the skin, even though the cotyledons may be cracked or partially crushed, or the skin split. Each major portion of a skin or cotyledon not included in the above definition is counted as a broken pea.

64. The peas are "practically free from foreign material" when they are entirely free from material which varies greatly in size or specific gravity from peas, such as stones, large pieces of pea shell, sticks; and when they contain per each 2 ounces of net contents not more than one piece of material which closely approximates peas in size and specific gravity, such as thistle buds, daisy heads, portions of radish-seed pods. The difficulty of absolute freedom from the latter class of foreign material occasionally renders its complete exclusion impracticable.

65. The liquor is "reasonably clear" when it is not badly clouded and does not contain considerable sediment.

PREPARATION AND EXAMINATION OF SAMPLE

66. Transfer the contents of the can to a dish, mix and remove a sample of 100 to 200 peas to be used in tests provided in paragraphs 61, 62 (1) and (4), and 63. Place these peas in a dish of appropriate size, cover them with liquor, if liquor is present, and keep dish covered to prevent evaporation until the tests are actually made. Cover the remainder of the sample in the same manner and reserve for tests provided in paragraphs 62 (2) and (3), 64, and 65.

67 (a). Determine if 90 percent of the peas are "sufficiently soft" (paragraph 62 (1)) by the following method: Remove the skin of the pea and place one cotyledon on its flat surface on a horizontal, smooth plate. By means of a second horizontal, smooth plate apply vertically an initial load of 100 grams, and increase the load at a uniform, continuous rate of 12 grams per second until the cotyledon is compressed to one-fourth its original thickness.

67 (b). Determine the percentage of peas which sink (paragraph 62 (2)) as follows: Pour the sample, provided for this test in paragraph 66, on an 8-mesh screen, using an 8-inch screen for containers of less than 3 pounds net weight, and a 12-inch screen for larger containers. Spread the peas evenly and allow to drain. Reserve liquor, if any, for test provided in paragraph 65. Transfer peas to a white pan and remove any foreign material for tests provided in paragraph 64. Add a volume of water equal to double the volume of the original sample. Pour back on the screen, spreading the peas evenly, tilt the screen as much as possible without shifting the peas and drain for 2 minutes. With a cloth wipe surplus moisture from lower surface of screen, remove the drained peas and determine their weight. Pour the drained peas at once into a brine of 1.12 specific gravity at 68° F. The brine temperature must be such that the resulting mixture will be within 1° of 68° F. The brine container must be of such size that the brine will be at least 4" deep and of such dimensions that the floating peas can form a single layer. Allow the peas to remain in the brine for 15 seconds, immediately skim off the floating peas, wash, drain, and weigh, following the same procedure as provided above. Determine weight of peas which sink by subtracting weight of floating peas from weight of drained peas, and calculate percentage.

67 (c). Determine percentage of alcohol insoluble solids in the drained peas (paragraph 62 (3)) as follows: Immediately after skimming off the floating peas as provided in paragraph 67 (b), drain and wash the peas which sink as provided in that paragraph, and thoroughly mix them with the peas separated by floating as provided in paragraph 67 (b), grind the mixture in a food chopper, stir until homogeneous and weigh 20 grams of the ground material into a 600 cc beaker. Add 300 cc of 80 percent alcohol (by volume), stir, cover beaker and bring to a boil. Simmer slowly for one-half hour. Fit into a Buchner funnel a filter paper, previously prepared as follows: Place a paper of appropriate

*For details of how to establish the base acreage and yield per acre for flue-cured tobacco, see T-211, entitled "Flue-Cured Tobacco Administrative Rulings, Series of 1936–1939, Relating to 1936–1939 Flue-Cured Tobacco Contracts." For details of how to establish the base acreage and yield per acre for Burley, fire-cured, and dark air-cured tobacco, see T-401, entitled "Tobacco Administrative Rulings, Series of 1936–1939, Relating to Burley, Fire-Cured, Dark Air-Cured Tobacco Contracts, 1936–1939."

size in a flat bottom dish, uncovered but provided with a tight fitting cover. Dry for 2 hours at the temperature of boiling water, cover dish, cool in a desiccator, and weigh at once. Transfer contents of beaker to Buchner funnel, filter with suction, and wash material on filter with 80 percent alcohol until washings are clear and colorless. Transfer filter paper and alcohol insoluble solids to the dish used in the preparation of the filter paper, dry uncovered for 2 hours at the temperature of boiling water, place cover on dish, cool in a desiccator, and weight at once. From this weight deduct weight of dish, cover and paper to determine weight of alcohol insoluble solids. Calculate percentage.

SUBSTANDARD QUALITY STATEMENT

68. Canned peas which fail to meet the above standard shall bear the substandard statement in the form and manner prescribed in paragraph 1. The first line of the legend shall be "Below U. S. Standard", the explanatory statement, except as provided in section (a), "Low Quality But Not Illegal."

(a) When canned peas fail to meet the above standard only in that they are artificially colored, the explanatory statement shall be "Because artificially colored."

STANDARD REQUIREMENT FOR FILL OF CONTAINER

69. Canned peas are of standard fill with respect to packing medium when the proportion of free liquid in the product is such that when the contents of the container are poured out and poured back into the container standing on a level surface, and the peas leveled without downward pressure, the liquid does not completely cover the peas after being allowed to stand for 15 seconds: Provided, That when the declared net weight is sufficient to fill the container to 90 percent or more of its capacity, liquid in excess of such declared net weight shall be removed before making the test.

SUBSTANDARD FILL STATEMENT

70. Canned peas which fail to meet the above requirement shall bear the substandard statement in the form and manner prescribed in paragraph 10 (2).

[Filed, May 8, 1936; 12:46 p. m.]

FEDERAL POWER COMMISSION.

At a meeting of the Federal Power Commission on the seventh day of April 1936.

Present: Chairman McNinch, Vice Chairman Manly, and Commissioners Drane, Draper, and Seavey.

ORDER GRANTING REHEARING

(Project No. 1175)

The following finding and order was adopted:

It appearing to the Commission:

(1) That Kanawha Valley Power Company, licensee of Project No. 1175, West Virginia, filed with the Commission on March 17, 1936, a petition for rehearing on the Commission's order and accompanying Opinion No. 20, approved February 4, 1936, and served upon the licensee on February 21, 1936, in the matter of the determination of the actual legitimate original cost of said project No. 1175, as of January 15, 1934;

(2) That said petition prays for rehearing on the item of interest during construction in the amount of $3,366.91, which was disallowed by the Commission in its order and accompanying opinion above mentioned.

And the Commission having considered the prayers in said petition finds that said petition for rehearing sets forth in sufficient detail grounds for rehearing.

Therefore, it is *ordered:*

That said petition for rehearing, insofar as it prays for a reconsideration by the Commission of the item of interest during construction in the amount of $3,366.91, be and the same is hereby granted, the date of said rehearing to be hereafter set by the Commission.

FRANK R. MCNINCH, *Chairman.*

[Filed, May 8, 1936; 9:33 a. m.]

At a meeting of the Federal Power Commission on the Twenty-eighth day of April, 1936:

Present: Vice Chairman Manly, Commissioners Drane, Draper, and Seavey:

ORDER SETTING HEARING

(Docket IT 5383 M)

It appearing to the Commission:

That Public Service Company of New Hampshire having filed an application under Section 203, Part II, of the Federal Power Act, under date of April 27, 1936, for authority to acquire for a consideration of $700,000 the following securities of New Hampshire Power Company, to wit:

$104,000 in principal amount of the First mortgage 6% Sinking Fund Gold Bonds, maturing December 1, 1943;

1,800 shares of 8% Cumulative Preferred Stock of the par value of $100, per share;

5,214 shares of the Common Stock without par value, constituting all of the issued and outstanding common stock,

all of said securities being presently owned jointly by the Middle West Corporation and Electrical Securities Corporation.

It is *ordered*:

That a hearing be held on the above application on Monday, May 11, 1936, at 2 p. m., in the Commission's hearing room, 417 Machinists Building, 9th and Mt. Vernon Place N.W., Washington, D. C.

BASIL MANLY,
Vice Chairman.

[Filed, May 8, 1936; 9:34 a. m.]

At a meeting of the Federal Power Commission on the seventh day of April 1936.

Present: Chairman McNinch, Vice Chairman Manly, and Commissioners Drane, Draper, and Seavey.

ORDER FOR HEARING

(IT 5378)

The following order was adopted:

It appearing to the Commission:

The Commission having received on February 20, 1936, an application from Lexington Water Power Company and Broad River Power Company, subsidiaries of Associated Gas and Electric System, both companies with headquarters in Columbia, South Carolina, for approval of the sale of all of the property and franchises of the former company to the latter company, including the transfer of license for project No. 516, a hydroelectric plant located at Dreher Shoals, near Columbia, the sale to be effected by an exchange of 53,162 shares of common stock of Broad River Power Company on the basis of one share of stock for each $100 net worth of Lexington Water Power Company:

Therefore, it is *ordered:*

That a hearing be held on the above application on Wednesday, May 13, 1936, at 10 a. m., in the Commission's hearing rooms, 416–17 Machinists' Building, Mt. Vernon Place and Ninth Street, Washington, D. C.

FRANK R. MCNINCH, *Chairman.*

[Filed, May 8, 1936; 9:33 a. m.]

At a meeting of the Federal Power Commission on the twenty-first day of April 1936.

Present: Commissioner Draper, Acting Chairman, and Commissioners Drane and Seavey.

HEARING ON APPLICATION

(Project No. 229)

The following order was adopted:

It appearing to the Commission:

That on July 21, 1925, an application was filed by The Washington Water Power Company for license for a water-power project on the Columbia River at Kettle Falls, in

Stevens and Ferry Counties, Washington, known as project No. 229, consisting of a dam, reservoir, and power plant, and appurtenant works;

That the proposed project would be in conflict with the proposed high-head development of the Columbia River at Grand Coulee, located below Kettle Falls;

That on February 16, 1933, the applicant herein was given until May 19, 1933, to show cause why the application should not be rejected, in response to which order certain information was submitted and representations made by the applicant.

Therefore, it is *ordered:*

That a hearing on the application and all matters pertinent thereto be held at 10 a. m. on May 25, 1936, in the Commission's hearing rooms, 416–17 Machinists Building, 9th and Mt. Vernon Place NW., Washington, D. C.

CLAUDE L. DRAPER, *Commissioner.*

[Filed, May 8, 1936; 9:34 a. m.]

At a meeting of the Federal Power Commission on the seventh day of April 1936.

Present: Chairman McNinch, Vice Chairman Manly, and Commissioners Drane, Draper, and Seavey.

ORDER SETTING REHEARING

(Project No. 289—Kentucky)

The following finding and order was adopted:

It appearing to the Commission:

(1) That a petition for rehearing was granted Louisville Gas and Electric Company, Licensee, Project No. 289, by an order of the Commission adopted December 31, 1934, upon the following items:

Engineering Fee on Cost of Construction	$481,533.48
Motion Pictures and Supplies	8,200.02
Airplane Services for Motion Pictures	756.10
Rental Charges for Use of Nonproject Lands During Construction	9,576.48
Total	$500,066.08

(2) That pursuant to the aforesaid order for rehearing and a subsequent order of the Commission entered June 10, 1935, the licensee filed a statement on July 31, 1935, of its claimed expenditures for the item of "engineering fee on cost of construction" in conformity with Opinion No. 11, dated October 31, 1933.

(3) That the Accounting Division has audited the accounts, books, records, and memoranda of the Byllesby Engineering and Management Corporation in connection with said "engineering fee" and results thereof have been incorporated into a report on the cost of engineering and purchasing services rendered by the said corporation in connection with design and construction of project No. 289, as of March 30, 1929, which report has been submitted to the Commission and a copy is to be served on the licensee in accordance with Rule XV, Rules of Practice, as amended.

Now, therefore, it is *ordered:*

That a rehearing be held on the items heretofore enumerated, in the total amount of $500,066.08, in the Commission's hearing rooms, 416–17 Machinists' Building, 9th and Mt. Vernon Place NW., Washington, D. C., at 10 a. m., on May 27, 1936.

FRANK R. MCNINCH, *Chairman.*

[Filed, May 8, 1936; 9:32 a. m.]

At a meeting of the Federal Power Commission on the twenty-eighth day of April 1936.

Present: Vice Chairman Manly, Commissioners Drane, Draper, and Seavey.

NOTICE OF HEARING

(Project No. 343)

The following order was adopted:

It appearing to the Commission:

(1) That on August 23, 1922, the West Virginia Power and Transmission Company, a West Virginia corporation, filed an application for a preliminary permit for a proposed power development on Cheat River and its tributaries located in Monongalia, Preston, Tucker, and Randolph Counties, West Virginia, and in Fayette County, Pennsylvania;

(2) That public notice of the filing of said application was duly given and published;

(3) That on January 25, 1924, a preliminary permit was issued for a period of three years to said West Virginia Power & Transmission Company for said proposed power development, designated as project No. 343, on the Cheat River, West Virginia;

(4) That on January 27, 1927, said West Virginia Power & Transmission Company filed an application for a license for said project No. 343, and that said application is now pending;

(5) That no substantial reason appears for further delay with respect thereto, and that a hearing should be held to allow the applicant an opportunity to present such additional evidence, information, and data, as may be necessary and desirable in relation to said pending application.

Now, therefore, it is *ordered:*

That a hearing be held before the Commission, or such member or representative thereof as it may designate, on Monday, June 15, 1936, at 10 a. m., in the hearing room of the Federal Power Commission, Rooms 416–17 in the Machinists Building, at Ninth Street and Mt. Vernon Place, Northwest, Washington, D. C., for the presentation of such additional evidence, information, data, briefs, or other statements in writing as may be necessary or desirable in support of said application.

BASIL MANLY, *Vice Chairman.*

[Filed, May 8, 1936; 9:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

Release No. 657

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors, and necessary for the execution of the functions vested in it, to exempt from the provisions hereinafter mentioned of the Securities Exchange Act of 1934 the following securities, for the period hereinafter stated and upon the terms and conditions hereinafter specified, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 3 (a) (12), 10 (b), and 23 (a) thereof, hereby adopts the following rule:

RULE AN21. *Temporary exemption from Sections 12 (a) and 7 (c) (2) of certain evidences of indebtedness of certain foreign states; prohibition of use of manipulative or deceptive devices or contrivances with respect thereto.*—(a) Evidences of indebtedness (i) which have been issued by any foreign state that is presently governed by an interim government which is holding office temporarily and which is to continue to hold such office only until the assumption thereof by a regular government which has been elected and (ii) as to which temporary exemption from the operation of Section 12 (a) shall expire pursuant to the terms of Rule AN7 on May 15, 1936, and as to which registration shall not be effective on that date, shall be exempt from the operation of said Section 12 (a) to and including the thirtieth day following the assumption of office by such elected regular government.

(b) Any security exempted from the operation of Section 12 (a) by paragraph (a) of this Rule shall be exempt from the operation of Section 7 (c) (2) for the period specified in said paragraph (a) to the extent necessary to render lawful any direct or indirect extension or maintenance of credit on such security or any direct or indirect arrangement therefor which would not have been unlawful if such security had been a security (other than an exempted security) registered on a national securities exchange.

(c) The term manipulative or deceptive device or contrivance, as used in Section 10 (b), is hereby defined to include

any act or omission to act with respect to any security exempted from the operation of Section 12 (a) by paragraph (a) of this Rule which would have been unlawful under Section 9 (a), or any rule or regulation heretofore or hereafter prescribed thereunder, if done or omitted to be done with respect to a security registered on a national securities exchange, and the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange to use or employ any such device or contrivance in connection with the purchase or sale of any security exempted by paragraph (a) of this Rule from the operation of Section 12 (a) is hereby prohibited.

This Rule shall be effective immediately upon publication.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[Filed, May 8, 1936; 12:14 p. m.]

SECURITIES EXCHANGE ACT OF 1934

Release No. 658

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby adopts the following rule:

RULE KA6. *Exemption from requirement of filing annual report for period covered in an application for registration.*—Notwithstanding the provisions of Rule KA1, an annual report need not be filed for a particular year if all of the following conditions are met:

(1) The issuer shall have filed, within the period prescribed for filing the annual report, an application for the registration of securities on a form other than Form 7, 8–A, or 8–B.

(2) The issuer shall have filed with such application, or as an amendment thereto, financial statements as of the dates and for the periods required under the appropriate form of annual report.

(3) Such application shall have been filed with each exchange with which the annual report is required to be filed.

The foregoing rule shall be effective immediately upon publication.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[Filed, May 8, 1936; 12:15 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of May A. D. 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, William O. Douglas.

File No. 37–1

IN THE MATTER OF PENN-WESTERN SERVICE CORPORATION

[Application for Approval of Mutual Service Company Pursuant to Rule 13–22]

ORDER AUTHORIZING HEARING

Penn-Western Service Corporation having filed with this Commission, pursuant to Rule 13–22, an application for approval of said Company as a mutual service company:

It is ordered, that the matter be set down for hearing before this Commission on the 26th day of May 1936 at 10 o'clock in the forenoon of that day at Room 1102, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.

By the Commission:

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[Filed, May 8, 1936; 12:14 p. m.]